



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

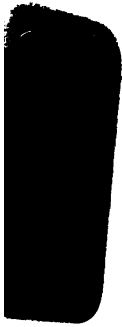
We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

2



EV
AOA
FDf

STANFORD LAW LIBRARY

A FULL REPORT

OF THE

PROCEEDINGS

IN THE CASE OF

THE OFFICE OF THE JUDGE PROMOTED

BY

(**HODGSON** v. **REV. F. OAKELEY**, *re decock*)

BEFORE THE

RT. HON. SIR HERBERT JENNER FUST, KT.,

DEAN OF THE ARCHES,

&c. &c. &c.

EDITED BY

A. F. BAYFORD, D.C.L.,

ADVOCATE.

LONDON:

**WILLIAM BENNING & CO., LAW BOOKSELLERS,
43, FLEET STREET.**

1845.

ERRATUM.

p. 127, line 10 from the bottom, *for* " Why if," *read* " Why not? If."

LONDON :
PRINTED BY RAYNER AND HODGES,
109, Fetter Lane, Fleet Street.

SEVERAL persons (including some who were present at the hearing) having expressed a desire to see in Print a fuller account than could be expected from the ordinary Law Reports, of the Informations of Counsel, and the Judgment of the Court, in the late case of the "Office of the Judge promoted by Hodgson against the Rev. Frederick Oakeley;" I have, in compliance, with a request made to me, carefully revised the Short-hand writer's notes, and submit the following pages to the reader, as a full, and, I trust, accurate account of those Proceedings.

A. F. BAYFORD.

Doctors' Commons,
Nov. 1845.

THE OFFICE OF THE JUDGE PROMOTED

BY

HODGSON v. OAKELEY.

Sir John Dodson, Her Majesty's Advocate, opened the proceedings:—

Sir,—This is a cause in which the office of the Judge is promoted by Christopher Hodgson, Esq., against the Reverend Frederick Oakeley, of Margaret Street, Cavendish Square, a Clerk in Holy Orders of the United Church of England and Ireland, and Minister of Margaret Chapel in the District Rectory of All Souls, Saint Marylebone, in the county of Middlesex, Diocese of London and Province of Canterbury, to answer to certain articles, heads, positions, or interrogatories, touching and concerning his soul's health, and the lawful correction and reformation of his manners and excesses, and, more especially, for having offended against the laws, statutes, constitutions, and Canons Ecclesiastical of the Realm, by having written and published, or caused to be published, a certain Pamphlet entitled, "*A Letter to the Lord Bishop of London on a Subject connected with the recent Proceedings at Oxford*," in which said pamphlet or letter doctrines are advisedly maintained and affirmed, directly contrary, or repugnant to the true, usual, literal meaning of the Articles of Religion as by law established, or some or one of them, and contrary to the said laws, statutes, constitutions, and Canons Ecclesiastical of the Realm, and against the peace and unity

of the aforesaid United Church of England and Ireland, as it is now by law established.

Upon the 8th of April last, Mr. *Dyke*, the proctor for the promoter, presented Letters of Request under the hand and seal of the Lord Bishop of London, bearing date the 3rd day of April, which the Surrogate was pleased to accept, and to decree to proceed according to the tenor thereof, the usual bond having been first given.

On the 1st Session of Easter Term, April 15th, Mr. *Bowdler* exhibited a Proxy under the hand and seal of the Rev. Frederick Oakeley, clerk, and, in virtue thereof, appeared for him to the Decree which had issued under seal of this Court. Mr. *Dyke* then exhibited a proxy under the hand and seal of Christopher Hodgson, Esq., his party, and brought in the said Decree, and he also, at the same time brought in the Articles with three exhibits marked A, B, and C annexed, and you were then pleased to assign to hear on admission thereof on the second Session.

On the second Session, the 22d of April, the Articles were admitted without opposition, and Mr. *Bowdler* then, on behalf of Mr. Oakeley, gave a negative issue thereto, and Mr. *Dyke* was assigned to prove by the fourth Session.

The Articles are twelve in number ; and the

First, Pleads, that he, the Rev. Frederick Oakeley, clerk, knows, believes, and has heard, that by the laws, statutes, constitutions, and Canons Ecclesiastical of the Realm, all ecclesiastical persons, of what rank or condition soever, who have been admitted into Holy Orders of the United Church of England and Ireland, ought to adhere to, and maintain with constancy and sincerity, the doctrines of the said Church, as by law established, and that whosoever having been so admitted, and having subscribed, and declared his assent to the Articles of religion agreed upon by the Archbishops and Bishops of both provinces, and the whole Clergy in the Convocation, held in London, in the year of our Lord, 1562, and ratified by the Royal authority, shall revolt from, or impugn, or deprave the

said Articles, or any of them, or any of the doctrines therein contained, ought to be punished, and corrected, according to the gravity of his offence, and the exigency of the law.

The second Article pleads that he, the said Rev. Frederick Oakeley, on or about the 8th day of July 1839, did willingly subscribe the Thirty-nine Articles of religion, and also to the three Articles of the thirty-sixth Canon, and to all things contained in them, and did declare, that he would conform to the Liturgy of the United Church of England and Ireland as it was then by law established.

The third Article pleads, that he, the said Rev. Frederick Oakeley, for many years past has been, and now is, a priest or minister in Holy Orders of the United Church of England and Ireland, and minister of Margaret Chapel, in the district rectory of All Souls, Saint Marylebone, in the county of Middlesex, and diocese of London, to perform the office of minister of the said chapel, by and with the consent of Dr. George Chandler, the rector of the said district, and that he is commonly accounted as the lawful minister of the said chapel.

The fourth Article exhibits a copy of the Act on licensing Mr. Oakeley, and pleads the same to have been faithfully extracted from the Book of Acts of the Lord Bishop of London, preserved in the office, or custody, of the Lord Bishop; and lastly, it pleads the identity of the party articulated, with the individual named in the Exhibit.

The fifth Article pleads, that Mr. Oakeley at sundry times, or at least once within two years previously to the date of the Decree, has advisedly in writing, or otherwise, maintained or affirmed, and has declared in writing, and otherwise, that he does maintain and affirm doctrines directly contrary, or repugnant to the true, usual, literal meaning of the said Articles of religion, as by law established, some or one of them.

The sixth pleads that Mr. Oakeley, some time in the year 1845, wrote and published, or caused to be published a certain pamphlet, entitled "*A Letter to the Lord Bishop of London on a Subject connected with the recent Proceedings at Oxford,*"

in which he advisedly maintained, and affirmed, and declared he maintained, and affirmed, and does maintain and affirm doctrines directly contrary, or repugnant to the true, usual, literal meaning of the Articles of religion as by law established, some or one of them, and contrary to the laws, statutes, constitutions, and Canons Ecclesiastical of the Realm, and against the peace and unity of the Church.

The seventh Article next sets forth certain passages from the pamphlet mentioned in the former Article, which, by permission of the Court, I will, for the present, pass over, as I shall have to call its attention to them more particularly hereafter.

The eighth Article pleads "that Mr. Oakeley, on or about the 25th of February last, wrote, addressed, and sent a letter to the said Lord Bishop of London, and which was duly received by his Lordship, in which he stated that he had been enabled to put out a pamphlet in the shape of a letter to his Lordship, and which pamphlet is the one before-mentioned in these Articles as having been written and published by him.

The ninth Article exhibits the original letter, and pleads it to be in the handwriting of Mr. Oakeley.

The tenth Article pleads the jurisdiction of the Court.

And the eleventh and twelfth are the usual concluding Articles.

With respect to the proof of these Articles, upon the 4th Session of the Term, the 10th of May, Mr. *Bowdler*, as proctor for Mr. Oakeley, admitted the second, third, and fourth to be true; and he also admitted as much of the fifth and sixth to be true as pleaded the writing of the pamphlet therein referred to, and the causing it to be published. He also admitted the truth of the seventh, eighth, and ninth Articles; and the truth of so much of the tenth as pleads that Mr. Oakeley was, and is of St. Margaret's Chapel, in the Diocese of London and Province of Canterbury. Upon these admissions being made in Acts of Court, Mr. *Dyke*, on behalf of the promoter,

declared that he should not examine any witnesses; Mr. *Bowdler* then declared that he should not give in any Allegation, and upon the petition of Mr. *Dyke*, you, Sir, concluded the cause, and assigned the same for information and sentence on the present day.

The case now comes on for hearing, and I have to submit that the Articles given in by the promoter, have been sufficiently proved, and that Mr. Oakeley has committed the ecclesiastical offence therein charged against him, and is, consequently, liable to be punished, according to the gravity of his offence, and the exigency of the law.

The Court will perceive from what I have stated, that all the material facts in this case are admitted, such as the writing and publishing the pamphlet in question; but that it is, notwithstanding, still maintained, that no offence has been thereby committed against the laws Ecclesiastical and Civil of the Realm. It, therefore, now becomes my duty to call the attention of the Court to the contents of the pamphlet, which Mr. Oakeley thus admits that he has written and published, in order to consider the doctrines therein contained, and see whether they are, as charged against Mr. Oakeley, repugnant to the Articles of the united Church of England and Ireland.

THE COURT.—Are you now proceeding to your argument?

The Queen's Advocate.—If the Court pleases.

THE COURT.—I should wish first to hear the opening on the other side. Who appears for Mr. Oakeley?

Mr. *Bowdler*.—I have received directions from Mr. Oakeley not to instruct counsel for the hearing of this case.

THE COURT.—Then I am to understand that Mr. Oakeley does not appear by Counsel, but by his Proctor only. I wished officially to be informed of this before the argument proceeded further.

The Queen's Advocate resuming.—I will now refer to the pamphlet published by Mr. Oakeley, in order to shew the Court the doctrines which are therein contained, and shall, in so doing, confine myself to the passages contained in the Articles.

The first occurs in page 11 :—"I do not deny that it may naturally strike your Lordship as a gratuitous and disturbing movement ;" namely, the movement which had taken place at Oxford, and which is pretty notorious.—"Nor, again, could I be surprised to hear that your Lordship had been seriously startled by my further declaration of an opinion, that the Articles are *subscribable* in what may be called an ultra-Catholic sense." The Court, I think, will find, from the passages which follow that by an ultra-Catholic sense, Mr. Oakeley means a Roman Catholic sense; "called an ultra-Catholic sense, so as to involve no necessary renunciation on the subscriber's part, of any formal decision of the Western Church." I think that in speaking of the Western Church immediately after this ultra-Catholic sense, there can be no doubt but Mr. Oakeley means thereby the Church of Rome, which is obviously the Western, as distinguished from the Eastern Church. He adds,—“And that I myself actually so subscribe them.” This, then, is the sense in which Mr. Oakeley says he has subscribed the Articles of the Church of England. And this is the first position which is laid down.

At page 12, he expresses himself thus :—"And now I wish to draw your Lordship's attention to the following point. The distinction in question is, as I contend, wholly irrelevant to my *question with the University*, for, in the University, it is not the practice of *teaching* certain doctrines which is even apparently impugned, but the *claim to hold them*. Mr. Ward himself never claimed to *teach* Roman doctrine." So that here we have a new expression, "Roman doctrine."—"On the contrary, he urges over and over again, that such a procedure would be highly wrong under our circumstances. What he maintains, and what the vote of Thursday seems to deny, is the *honesty* of subscribing the Articles in a certain sense. The University, then, cannot pretend to let me off on the ground of the above distinction; for, with respect to it, I differ in no way from Mr. Ward, whom it has, by the hypothesis, condemned. Mr. Ward does not claim to *teach*. I claim to

hold." Therefore this is an assertion that he claims to hold the Roman doctrine, for of the Roman doctrine he was speaking. I say, then, he distinctly claims to hold Roman doctrine.

He continues thus:—" *But with your Lordship*, I contend, this distinction ought to, and will, receive consideration. Were I to be found *teaching* Roman doctrine in my public ministrations in your Lordship's diocese, I should, as I feel, most deservedly expose myself to your Lordship's censure. It is plain that your Lordship, as a Bishop of our Church, could not, and would not suffer it." It is thus quite clear, according to Mr. Oakeley's own statement, that he claims to hold the Roman doctrine,—that he does hold it,—and that the Roman doctrine which he holds is of such a nature, that the Bishop would necessarily proceed against him if he preached it; for he says, if he taught it in his Church, the Bishop "could not, and would not suffer it!"

I next refer to page 14.—"It may be replied that my public declaration on the subject of subscription, precludes me from preaching against the Roman doctrine." This leaves no doubt as to his meaning. "Most assuredly it does. If my obligations as an English clergyman require me to controvert the doctrines of Rome, then I freely admit that I do not fulfil these obligations." Therefore he will not preach against the doctrines of the Roman Church; for he holds that doctrine:—he forbears, indeed, to teach it in his Church, but he will not, on the other hand, preach against it. "But surely, my Lord, if I be justified in considering that there are things among us to be done more important than controverting *Dissent*, à *multo fortiori*, am I bound, upon any Catholic principles whatever, not to be harder on what your Lordship acknowledges to be a branch of the Catholic Church"—he is here, I apprehend, speaking of the Church of Rome—"than upon those who are not *even members of the Church of England*,"—that is, persons who do not come so near to the right doctrine, as even to be members of the Church of England—persons who are, in some degree, even inferior to that.

I next call the Court's attention to a passage in page 17.—
 "But here I shall be asked, 'Is then your claim to hold (as distinct from teaching) all Roman doctrine, no more, after all, than the assertion of a right to a merely *speculative* opinion? Because if so, you are doing yourself injustice, and coming forward, in an obnoxious character, for no sufficient purpose.'"

"I reply frankly that my opinion is not merely speculative. I hope none of my opinions on religious subjects are speculative." "It appears, therefore, that he claims to hold, and does hold, Roman doctrine, and that his opinions are not merely speculative. "I hope none of my opinions on religious subjects are merely speculative. If I say that the view in question is not practical, I mean that it in no way affects my teaching, except negatively." Thus Mr. Oakeley again confirms his former statement, that he is unable to preach against Roman doctrine; but the Court will presently see that he goes even farther than this.

In page 18 the following passage occurs—"Still, I do not at all deny that, where I plead for the utmost latitude in the interpretation of our formularies on the Catholic side,"—meaning clearly the Roman Catholic side—"I mean something very real, and, in a certain sense, very practical. Now, then, I will crave your Lordship's kind attention for awhile, that I may say what I *do* mean by the exceeding reluctance I feel to accept anti-Roman limitations of our Articles and Prayer Book. I will try to analyse the feeling under which I regard it as a point of duty to my own communion, to extract, nay, and if so be, extort, the most Catholic meaning possible from her apparently anti-Catholic determinations; and why, moreover, I cannot consent to draw those distinctions between the 'Catholic,' and the 'Roman' sense, upon which some of my respected friends are disposed to lay so great a stress." Therefore it appears from this passage, that whenever he uses the word Catholic he means Roman; for he cannot consent to draw a distinction between them. "My Lord, I am not in the number of those who are able to draw a line between the

earlier and later decisions of the Catholic Church." So that Mr. Oakeley is unable to draw any distinction between Catholic and Roman doctrine ; and he is also unable to draw any line between the earlier and later decisions of the Councils of the Church, and among the later, he must undoubtedly intend to include (as indeed he presently admits) the decrees and canons of the Council of Trent, which are the latest decisions of the Roman Church in any so-called General Council.

Lastly, I call the attention of the Court to the passage in Mr. Oakeley's pamphlet, which commences at the bottom of page 19.—"The ramifications of heretical invention would appear to be almost indefinite and incalculable ; but so many as are the extravagancies of theological error, so many also must be the safe-guards of orthodoxy." The Court will presently see what he means by orthodoxy—that it is, in fact, neither more nor less, than the Roman Catholic faith. "I will never believe, then, that the strong current of dogmatic theology was suddenly frozen up in the fourth or the sixth century of the Christian æra. Moreover, I believe also, that, in the latter centuries, heresy assumed quite a new shape, and, whereas in earlier times, it occupied itself in dealing with the *objective* doctrines of the Gospel, in the more modern ages it caught the *subjective* spirit of the times, and issued in all kinds of fatal speculations upon matters connected with the internal life of the Christian ; such, for example, as the mode of his justification in the sight of God. Shall I suppose the Church to have been silent on such emergencies!" The Court will remember what it is that Mr. Oakeley designates as the Church. "On the contrary, I believe her to have been ready at Trent, as at Nicæa, with her scholastic definitions and her preclusive anathemas." So that the scholastic definitions, and the preclusive anathemas, which were dealt out with so liberal a hand in the Council of Trent, appear to have Mr. Oakeley's full approbation. "And so in the times intermediate. That sort of relation which the Athanasian Creed bears to the Apostle's, I believe that still later dogmatic decisions bear to

it. With these feelings, your Lordship can hardly wonder that I should deem too well of my Church to suppose, without overpowering reason, that she directly and unequivocally contravenes the decrees even of the later Councils. What? a body of divines in one corner of the world (good men, I doubt not, in their way, yet surely exposed, and apparently not superior, to exterior influences) set about deliberately to call in question the solemn acts of the assembled prelates of Christendom!" In this passage which I have just read, there is a direct reference to the Convocation of Our Church which framed the Articles, and also to the Council of Trent, and the decided preference is given to the latter. See how he puts it—nothing can be plainer. "What? a body of divines in one corner of the world, (good men I doubt not in their way, yet surely exposed, and apparently not superior, to exterior influences,) set about deliberately to call in question the solemn acts of the assembled prelates of Christendom!"

And now, Sir, having quoted the foregoing passages to the Court, I call its attention to the result arising from them, which appears to me to be, 1, that Mr. Oakeley claims to hold, and, in point of fact, does hold, the doctrines of the Roman Catholic Church; 2, that the holding of these doctrines has, at least, a negative effect upon him, because it prevents him from preaching against them, if such a course were necessary; 3, that after a direct allusion to the Synod in which the Articles of the Church of England were drawn up, and also to the Council of Trent, Mr. Oakeley gives the undoubted preference to the Roman Catholic Canons and Doctrines over the Articles of his own Church, although he considers himself able to harmonize them together, or, at least, that he can *extort* from the Articles doctrines equivalent to those laid down by the Council of Trent. I think, however, I shall presently be able to satisfy the Court that the Thirty-nine Articles are diametrically opposed to the Decrees and Canons of that Council, and were drawn up with the express intention of opposing them—that they are antagonist principles,—and

that it is quite impossible for a person maintaining the doctrines, which are held and maintained by Mr. Oakeley, to be permitted to continue his ministrations as a Minister of the Church of England. It would be just as prudent on the part of the authorities of the Church of England to permit a Roman Catholic Priest to preach in our Churches upon his merely promising not to preach in favor of Roman Catholic doctrine, as to sanction Mr. Oakeley in his present course. It seems to me that it would be a parallel case; for Mr. Oakeley's faith is essentially the same with that of the Roman Catholic Priest, inasmuch as he holds and maintains all Roman doctrine.

I shall now direct the Court's attention to the obvious repugnancy which exists between our Articles and the doctrines promulged by the Council of Trent. It is no part of my duty to inquire which of these be founded in truth, and which is founded in error. I have my own convictions upon that point very strongly, but I do not stand here to enter upon a theological inquiry, but to argue a question of law. I have simply to compare the one doctrine with the other, and shew wherein they are inconsistent and opposed: and, I think, it will appear most indisputably, that the Articles of the Church of England have been drawn up in direct opposition to the then recent decrees of the Council of Trent. And if so, it does seem most extraordinary, that any Minister of the Church of England should consider that he was able, whilst officiating in communion with, and under the sanction of that Church, to maintain the opposing doctrines of the Church of Rome.

Upon this point, I refer the Court to an eminent authority, viz., Bishop Waterland, who in the second volume of his works, page 291, writes thus—"No conscientious *Protestant* would subscribe the Romish Catechism, or Pope Pius's Creed. No serious *Papist* would subscribe our Articles." Mr. Oakeley would, I suppose, call himself a serious Papist—he has, however, subscribed the Articles. "No pious *Dissenter* would give his assent and consent to such parts of our Public Forms

as he does not heartily approve of, in the plain and intended sense. Thousands have died martyrs to the maxims, which I am now asserting; whose great and only misfortune it was, not to have been acquainted with those *evasive arts* and *subtle distinctions*, which, it seems, might have preserved them." Bishop Waterland is there referring to an objector of his own time; but, I think no language can be stronger, or more applicable to the present case. And if, in point of fact, applying Bishop Waterland's reasoning, there be no insuperable difference (and according to Mr. Oakeley there is none) between the Roman Catholic doctrine and that of the Church of England, why have so many learned and pious men suffered death rather than sign the Articles of the Roman Catholic faith? Why were Cranmer and Ridley burned? *They*, at least, it must be admitted, died for the Protestant faith, fully believing that there was a wide and most important difference between it, and that of the Church of Rome.

There is another passage of Bishop Waterland's to which I would advert. It occurs in page 335, in the same volume of his works: "1. The Church of England requires subscription not to *words*, but *things*; to propositions contained in her public forms."

"2. Subscribers are obliged, not to *silence* or *peace* only, but to a *serious belief* of what they subscribe to." The same is laid down by Dr. Bennet in his work on the Thirty-nine Articles, and also by a variety of other writers who have treated the same point.

"3. Subscribers must believe it true in that particular sense which the Church intended, (so far as that sense may be known) for the Church can expect no less; the design being to preserve an uniform tenor of faith, to preclude diversity of opinion, to have her own explications and none other (as to points determined) taught and inculcated; and to tie men up from spreading or receiving doctrines contrary to the public determinations. These and the like ends cannot be at all

answered by *subscription*, unless the subscriber give his assent to the Church's forms in the Church's sense; that is, in the sense of the *compilers* and *imposers*."

"4. The sense of the *compilers* and *imposers* is to be judged of from the *plain, usual, and literal* signification of words; and from their intention, purpose, and design, however known: the rule for understanding the public forms being the same as for understanding oaths, laws, injunctions, or any other forms or writings whatever." He proceeds at considerable length much to the same effect.

But it is not to Divines only that I would wish to refer. There is a case entitled *Smith versus Clarke*, and reported in *Croke Elizabeth*, first part, page 252, which establishes the law as to what interpretation ought to be affixed to the subscription to our Articles. It was an application for a prohibition, and "the case upon special verdict was, two incumbents were of the Church of Ungery Hatly, in the county of Cambridge: one sued the other in the Spiritual Court to deprive him for not reading the Articles and giving his assent to them according to the statute of 13 Elizabeth, and the issue being if he gave his assent, the jury found, that he read the Articles and said, *I give my consent unto them so far forth as they agree with the word of God*. And it was adjudged it was not such unfeigned consent as the statute intendeth, but it ought to be absolute without a condition. And a consultation was awarded." So that the same doctrine was held to be law, which is laid down by the Divines to whom I have referred.

That the Articles of our faith were drawn up, in direct opposition to the Roman Catholic doctrines, appears not only from the terms in which they have been drawn up, but also from writers of the highest authority. Bishop Burnet, a learned Prelate of our Church, who wrote upon the Thirty-nine Articles, and whose work is universally known, in his Introduction speaks thus: "Another reason that the first Reformers had for their descending into so many particulars, and for all these negatives that are in their confessions, was

this: they had smarted long under the tyranny of Popery, and so they had reason to secure themselves from it, and from all those who were leavened with it. They here in England had seen how many had complied with every alteration both in King Henry and King Edward's reign, who not only declared themselves to have been all the while Papists, but became bloody persecutors in Queen Mary's reign: therefore it was necessary to keep all such out of their body, that they might not secretly undermine and betray it. Now since the Church of Rome owns all that is positive in our doctrine, there could be no discrimination made, but by condemning the most important of those additions, that they have brought into the Christian religion, in express words; and though in matters of fact, or in theories of nature, it is not safe to affirm a negative, because it is seldom possible to prove it; yet the fundamental articles upon which the whole Reformation and this our Church depends, is this, that the whole doctrines of the Christian religion are contained in the Scripture, and that therefore we are to admit no article as a part of it till it is proved from Scripture." Clearly, therefore, in the opinion of this Bishop, the Articles were drawn up in express contradiction to the doctrines of the Roman Church. And the same proposition is laid down by Bishop Tomline, and also by Dr. Bennett in his work on the Thirty-nine Articles.

From these authorities it would, therefore, appear that the design of our Articles was not merely for peace, but that the subscribers should give their full assent to them. They were not merely intended, that those who subscribed them should refrain from preaching against them, but that such persons should pledge themselves to a full and unfeigned assent to their contents.

I now request the attention of the Court to the Articles themselves. They are described as "Articles agreed upon by the Archbishops and Bishops of both provinces, and the whole Clergy in the convocation holden at London, in the year 1562, for the avoiding of diversities of opinions, and for the esta-

blishing of consent touching true religion." And the purpose for which these Articles were framed, as thus announced in their title, shows that the view taken of them by Dr. Waterland, and also in the case which I have quoted, is the correct and true one.

These Articles, then, were drawn up as they now stand in 1562, which was towards the conclusion of the Council of Trent; for, as the Court knows, the Council of Trent commenced its sessions in 1545, and terminated them in 1563, but almost all the decrees and canons to which it will be necessary for me to refer, (indeed all of them with one exception) were passed before the revision of our Articles in 1562 was concluded. The Court is also aware that it was not made imperative by Act of Parliament to sign these Articles until 1571, and, therefore, long after the Council of Trent had been dissolved.

In the declaration of his Majesty prefixed to the Articles by Charles II., we read—"That, therefore, in these both curious and unhappy differences, which have for so many hundred years, in different times and places, exercised the Church of Christ, we will, that all further curious search be laid aside, and these disputes shut up in God's promises, as they be generally set forth to us in the Holy Scriptures, and the general meaning of the Articles of the Church of England according to them. And that no man hereafter shall either print, or preach, to draw the Article aside any way, but shall submit to it in the plain and full meaning thereof: and shall not put his own sense or comment to be the meaning of the Article, but shall take it in the literal and grammatical sense." One complaint against Mr. Oakley is, that he has not complied with this.

The first of the Thirty-nine Articles to which I shall call the Court's attention is the sixth; a most important and leading article. It is entitled "*Of the sufficiency of the Holy Scriptures for salvation*," and contains these words: "Holy Scripture containeth all things necessary to salvation: so that

whatsoever is not read therein, nor may be proved thereby, is not to be required of any man that it should be believed as an Article of the faith, or be thought requisite or necessary to salvation. In the name of the Holy Scriptures we do understand those Canonical books of the Old and New Testament, of whose authority was never any doubt in the Church." Then follow the names and numbers of the Canonical books. And after these we read,—“and the other books (as Hierome saith) the Church doth read for example of life and instruction of manners; but yet doth it not apply them to establish any doctrine; such are these following.” We then have a list of the Apocryphal books, and lastly, the Article finishes thus, “all the books of the New Testament, as they are commonly received, we do receive, and account them canonical.”

Upon this point, therefore, the doctrine of the Church of England is clearly enunciated in the Article; namely, that every thing necessary to salvation is to be deduced from the Scriptures, and that nothing which cannot be deduced therefrom is necessary for salvation; and further, to avoid ambiguity, it names all the books which compose the Holy Scriptures. Now, upon comparing this Article with the doctrine of the Council of Trent, the Court will find the distinction between the two to be most material: for the Roman doctrine are drawn from a different source, inasmuch as, in addition to the books, which, according to the Article, compose the Scriptures, the Romanists receive other books as canonical, including therein nearly all those books which our Articles consider Apocryphal, and even to these they add tradition.

But before I refer to the decree and canon of the Council of Trent, I would request the Court's permission to make a quotation from the second volume of Bishop Tomline's *Theology*, p. 190, who thus expresses himself: “The next point to be settled is the rule of our faith and practice; this is a subject upon which there is a material difference between the Church of Rome and the Church of England, and to that difference this Article is directed.” He then enters at length

into the difference, but, as I have already adverted to that point it will not be necessary for me to repeat it.

Bishop Burnet also, speaking of this Article, writes: "So far I have explained the first branch of this Article. The consequence that arises out of it is so clear, that it needs not be proved: *that, therefore, nothing ought to be esteemed an Article of faith, but what may be found in it, or proved by it.* If this is our rule, our entire and only rule, then such doctrines as are not in it ought to be rejected; and any Church that adds to the Christian religion, is erroneous for making such additions, and becomes tyrannical if she imposes them upon all her members, and requires positive declarations, subscriptions, and oaths concerning them. In so doing she forces such as cannot have communion with her, but by affirming what they believe to be false, to withdraw from that which cannot be had without departing from the truth. So all the additions of the five Sacraments, of the Invocation of angels and saints, of the worshipping of images, crosses, and relics; of the corporal presence in the Eucharist; of the sacrifice offered in it for the dead as well as for the living, together with the adoration offered to it, with a great many more, are certainly errors, unless they can be proved from Scripture; and they are intolerable errors, if as the Scripture is express in opposition to them, so they defile the worship of Christians with idolatry,"—and so forth.

There is also a Popish writer, Cardinal Bellarmine. I have not indeed his works, but I quote from them as cited by Bishop Marsh, in his "*Comparative View of the Churches of England and Rome*," in a note to page 11. Bellarmine asserts,—*Nos asserimus in Scripturis non contineri expresse totam doctrinam necessariam, sive de FIDE, sive de MORIBUS; et proinde, præter verbum Dei scriptum, requiri etiam verbum Dei non scriptum, id est, divinas et apostolicas traditiones. At ipsi docent in scripturis omnia contineri ad FIDEM et MORES necessaria, et proinde non esse opus ullo verbo non scripto.*" This, Sir, I apprehend, is as exact a description as any Pro-

testant could have given of the difference between the two Churches; and, therefore, both parties are agreed as to this difference, and no doubt upon the matter can possibly exist.

I will now, with the Court's permission, draw its attention to the doctrines of the Church of Rome, as officially laid down in the Decrees and Canons of the Council of Trent, which, I apprehend, furnish as authentic an account of the Roman Catholic faith, as our own Articles do of the faith of the Church of England. I refer the Court to the decree passed on the 8th of April, 1546, on the fourth Session of the Council. This, therefore, was one of the earliest points determined in that Council, as indeed it is in our own Articles; for, after the five first, this stands as a leading Article, containing the rule of the faith from whence the doctrines of the two Churches respectively flow. The decree is in the following words,—
“Decretum de Canoniciis Scripturis. Sacrosancta, œcumenica et generalis Tridentina Synodus, in spiritu sancto legitime congregata, presidentibus in ea eisdem tribus Apostolicæ Sedis legatis, hoc sibi perpetuo ante oculos proponens, ut sublatis erroribus, puritas ipsa Evangelii in Ecclesiâ conservetur: quod promissum ante per prophetas in Scripturis sanctis, Dominus noster Jesus Christus Dei Filius, proprio ore primum promulgavit, deinde per suos Apostolos tanquam fontem omnis et salutaris veritatis, et morum disciplinæ, omni creaturæ prædicari jussit: perspicuensque hanc veritatem et disciplinam contineri in libris scriptis, et sine scripto traditionibus”—in books and also in tradition—“quæ ipsius Christi ore ab Apostolis, acceptæ, aut ab ipsis Apostolis, spiritu sancto dictante, quasi per manus traditæ, ad nos usque pervenerunt.”
 There cannot, therefore, upon this point remain a doubt of the inconsistency of the doctrines of the Church of Rome with those of the Church of England. And a most important point it is, because, as Bishop Burnet has shewn, it is from this source that so many errors of the Church of Rome have had their origin. To continue the decree,—*“Orthodoxorum patrum exempla secuta, omnes libros tam Veteris quam Novi Testamenti, cum utriusque unus Deus sit auctor, nec non traditiones*

ipsas, cum ad fidem tum ad mores pertinentes,”—the Decree, therefore extends tradition to faith as well as to morals,—*“tanquam vel ore tenus a Christo, vel a Spiritu sancto dictatas, et continuâ successione in Ecclesia Catholicâ conservatas, pari pietatis affectu ac reverentiâ suscipit, et veneratur.”* The Court, then, sees that this Decree places the traditions of the Church upon precisely the same footing with the books of the Old and New Testament.—*“Sacrorum vero librorum indicem huic decreto ascribendum censuit; ne cui dubitatio suboriri possit, quinam sint, qui ab ipsa synodo suscipiuntur.”*

The Decree next gives a list of the books received by the Roman Church as Canonical, therein comprehending not only all the books which we receive as such, but, in addition thereto, nearly all the books which we number among the Apocryphal.

Then, Sir, having given the list of the Canonical books, the Decree adds,—*“Si quis autem libros ipsos integros cum omnibus suis partibus, prout in Ecclesiâ Catholicâ legi consueverant, et in veteri Vulgatâ Latinâ editione habentur, pro sacris et canonicis non susceperit, et traditiones prædictas, sciens et prudens contempserit, anathema sit.”* A direct anathema, therefore, is pronounced against those who have subscribed our Articles, because they clearly subscribe to a very contrary doctrine, and to one which is here expressly condemned.

Before I quit this point I must also advert to another material difference between the Churches. The Church of Rome, as I have just shewn, adheres to the Vulgate, and does not appeal to the Scriptures in the original languages as we do. Now, according to our notions, the Vulgate cannot claim the merit of being even a faithful translation; yet this Latin Vulgate is the only edition of the Scriptures which is to be used. And the same is further enacted in the next Decree passed at the same Session, *“Insuper eadem Sacrosancta Synodus considerans non parum utilitatis accedere posse*

Ecclesiæ Dei, si ex omnibus Latinis editionibus, quæ circumferuntur, Sacrorum librorum, quænam pro authenticâ habenda sit, innotescat, statuit et declarat, ut hæc ipsa vetus et Vulgata editio, quæ longo tot sæculorum usu in ipsâ Ecclesiâ probata est, in publicis lectionibus, disputationibus, prædicationibus et expositionibus pro authenticâ habeatur; et ut nemo illam rejicere quovis prætextu audeat, vel præsumat." I do not consider it necessary to pursue the matter further, but, if, as I submit is the case, it is impossible to conceive any thing plainer than this distinction between the Churches, and if it be the source from whence many, if not all, the other difference flow, it would seem, that this is such an essential and fundamental difference between the two Churches, as cannot by possibility be surmounted.

I shall now proceed to the ninth Article, which is entitled, "Of original or birth sin.—Original sin standeth not in the following of Adam (as the Pelagians do vainly talk); but it is the fault and corruption of the nature of every man, that naturally is engendered of the offspring of Adam; whereby man is very far gone from original righteousness, and is of his own nature inclined to evil, so that the flesh lusteth always contrary to the spirit; and, therefore, in every person born into this world, it deserveth God's wrath and damnation. And this infection of nature doth remain, yea in them that are regenerated; whereby the lust of the flesh called in the Greek *χρουργμα σαρκος*, which some do expound the wisdom, some sensuality, some the affection, some the desire of the flesh, is not subject to the law of God. And although there is no condemnation for them that believe and are baptised, yet the Apostle doth confess, that concupiscence and lust hath of itself the nature of sin." And in respect to this Article also, I submit that the opposition to the Council of Trent is plain. In the Decree of that Council passed in the fifth Session, the 17th June, 1546, and in the fifth or last paragraph of that Decree we read, "Si quis per Jesu Christi Domini nostri

gratiam, quæ in Baptismate confertur, reatum originalis peccati remitti negat; aut etiam asserit non tolli totum id, quod veram et propriam peccati rationem habet: sed illud dicit tantum radi, aut non imputari: anathema sit." So, that any person who signs the ninth Article of the Church of England, to the effect that this infection of nature does remain after baptism, is to be anathema. Then how can the two be reconciled? Without entering into the theological part of the question, they are directly, and, as it appears, purposely opposed to each other, and utterly irreconcilable.

I now come to the fourteenth Article, entitled, "Of works of Supererogation" which we are told cannot be taught without arrogancy and impiety." Now that this Article was expressly levelled against a doctrine of the Church of Rome, has never been, and I think cannot be, denied.

The fifteenth Article speaks, "Of Christ alone without sin.—Christ in the truth of our nature was made like unto us in all things, sin only except, from which he was clearly void, both in his flesh, and in his spirit. He came to be the Lamb without spot, who, by sacrifice of himself once made, should take away the sins of the world, and sin, as St. John saith, was not in him. But all we the rest, although baptised, and born again in Christ, yet offend in many things: and if we say we have no sin, we deceive ourselves, and the truth is not in us." Therefore, the doctrine of the Church of England is, that Christ alone is without sin; but the Church of Rome, by the twenty-third Canon, passed in the sixth Session of the Council of Trent, extends that sinless purity to the Virgin Mary likewise,—"*Si quis hominem semel justificatum dixerit amplius peccare non posse, neque gratiam amittere, atque ideo eum qui labitur, et peccat, nunquam vere fuisse justificatum; aut contra, posse in tota vita peccata omnia, etiam venialia, vitare, nisi ex speciali Dei privilegio, quem admodum de Beata Virgine tenet Ecclesia, anathema sit.*" Also at the end of the Decree passed in the fifth Session we have a similar passage, "*Declarat tamen hæc ipsa sancta Synodus, non esse suæ intentionis,*

comprehendere in hoc decreto, ubi de peccato originali agitur, Beatam et Immaculatam Virginam Mariam, Dei genitricem; sed observandas esse constitutiones felicitis recordationis Sixti Papæ IV., sub pœnis in eis constitutionibus contentis, quas innovat." Thus, again, we perceive a material distinction between the two creeds.

To come next to the nineteenth Article: "Of the Church—The visible Church of Christ is a congregation of faithful men, in the which the pure word of God is preached, and the Sacraments be duly ministered according to Christ's ordinance in all those things that of necessity are requisite to the same. As the Church of Jerusalem, Alexandria, and Antioch, have erred, so also the Church of Rome hath erred, not only in their living and manner of Ceremonies, but also in matters of faith." Well then, how is it possible by any ingenuity to reconcile the doctrines of the two Churches? The Church of England says the Church of Rome hath erred in matters of faith. There can be no mistake; "they have erred;" and this was declared whilst the Council of Trent was sitting, and after most of their Decrees had passed. If Mr. Oakeley believes and maintains all Roman doctrine, he believes and maintains that which is pointedly declared by the Church of England to be erroneous.

I shall now proceed to the twenty-second Article, concerning Purgatory—"The Romish doctrine concerning Purgatory, Pardons, Worshipping, and Adoration, as well of Images as of Reliques, and also Invocation of Saints, is a fond thing vainly invented, and grounded upon no warranty of Scripture, but rather repugnant to the word of God." And when it is said to be *rather* repugnant to the word of God, this must not be understood, as if it were intended, that it was in some degree only repugnant; because, by looking at the Latin version, which is the authentic version, (and from which the English translation is made,) we find the words to be "*immo* verbo Dei contradicit."

THE COURT.—You need not trouble yourself further on

that point—the meaning evidently is, that so far from being warranted in Scripture, they are opposed to it.

The Queen's Advocate.—It is very true, that it may be said of this Article of our Church, that it was not drawn up in opposition to any formal decree of the Council of Trent respecting Purgatory, because, in point of fact, the formal decree of that Council upon the point was not passed until after the Convocation in London was dissolved; viz., in the 25th Session of the Council. But I shall shew to the Court that, notwithstanding this, the Council of Trent had pledged itself to this doctrine previously to the passing of that decree, and previously to the breaking up of the Convocation in London.

THE COURT.—In the Article it is designated as “the Romish doctrine:” therefore it is not necessary to prove that the Articles were framed after the decree of the Council of Trent.

The Queen's Advocate.—Yes: it is designated as “the Romish doctrine concerning Purgatory,” and therefore, as the Court remarks, it is unnecessary in this case to go further, except merely to shew what the Decree of Trent was. It was passed in the twenty-fifth Session, and entitled “*Decretum de Purgatorio. Cum Catholica Ecclesia, Spiritu sancto edocta, ex sacris litteris, et antiqua Patrum traditione, sacris Conciliis, ét novissime in hâc œcumenicâ Synodo docuerit, Purgatorium esse; animasque ibi detentas, fidelium suffragiis, potissimum vero acceptabili altaris sacrificio juvari; præcipit sancta Synodus Episcopis, ut sanam de Purgatorio doctrinam, à sanctis Patribus, et sacris Conciliis traditam, à Christi fidelibus credi, teneri, doceri, et ubique prædicari diligenter studeant.*” The next decree, passed upon the same Session, referred to the Invocation of Saints, and the Worshipping of Images and Reliques, but I will not quote it, being rather desirous to call the Court's attention to the thirtieth Canon passed in the sixth Session held on the 13th January, 1547, and in which the doctrine of Purgatory is stated. “*Si quis post acceptam*

justificationis gratiam, cuilibet peccatori pœnitenti ita culpam remitti, ut reatum æternæ pœnæ deleri dixerit, ut nullus remaneat reatus pœnæ temporalis exsolvendæ vel in hoc sæculo, vel in futuro in Purgatorio, antequam ad regna cœlorum aditus patere possit; anathema sit." Thus an anathema was pronounced against the impugnors of this doctrine at an early period, and long anterior to the date of our Articles in 1562.

Before leaving the doctrine of Purgatory, I would call the attention of the Court to a passage occurring in Bishop Jewell's *Apology*, a work of the highest estimation. The passage, which is given in Bishop Randolph's *Enchiridion*, vol. 1, page 222, is as follows,—“ Nam quod de Purgatorio isti suo jactare solent, etsi illud scimus non ita novum esse, tamen non aliud quàm fatuum et anile commentum est.”

Again, the twenty-fourth Article is, “ Of speaking in the congregation in such tongue as the people understandeth.” And certainly in this respect we differ in a great measure from the Church of Rome.

The twenty-fifth Article is very important, as it speaks “ Of the Sacraments.—Sacraments ordained of Christ be not only badges or tokens of Christian men's profession, but rather they be certain sure witnesses, and effectual signs of grace, and God's good will towards us, by the which he doth work invisibly in us, and doth not only quicken, but also strengthen and confirm our faith in Him. There are two Sacraments ordained of Christ our Lord in the Gospel, that is to say, Baptism, and the Supper of the Lord.”

“ Those five commonly called Sacraments,”—that is, the five which the Church of Rome calls Sacraments,—“ that is to say, Confirmation, Penance, Orders, Matrimony, and Extreme Unction, are not be counted for Sacraments of the Gospel, being such as have grown partly of the corrupt following of the Apostles, partly are states of life allowed in the Scriptures; but yet have not the like nature of Sacraments with Baptism and the Lord's Supper, for that they have not any visible sign or ceremony ordained of God.”

Before I quit this Article, I should wish to observe that the last paragraph which I have read, and which refers to the "five commonly called Sacraments," is not to be found in the Articles of 1552. Those Articles contented themselves with stating simply, that there were two Sacraments, and the paragraph to which I have directed the Court's attention, was not introduced until 1562. The subsequent introduction of these words (among other things) appears to me to shew that the Articles were pointed against the doctrines of the Church of Rome, as laid down by the Council of Trent which was then sitting.

The Article concludes thus,—“The Sacraments were not ordained of Christ to be gazed upon, or to be carried about, but that we should daily use them. And in such only as worthily receive the same, they have a wholesome effect or operation ; but they that receive them unworthily, purchase to themselves damnation, as St. Paul saith.”

The Decree and Canons of the 7th Session of the Council of Trent, which passed on the third of March, 1547, appear to be those against which this twenty-fifth Article is mainly pointed. The words of the decree are,—“Ad consummationem salutis de justificatione doctrinæ, quæ in præcedenti proxima Sessione uno omnium Patrum consensu promulgata fuit consentaneum visum est de sanctissimis Ecclesiæ Sacramentis agere, per quæ omnis vera justitia incipit, vel cæpta augetur, vel amissa reparatur. Propterea sacrosancta œcumenica et generalis Tridentina Synodus, in Spiritu Sancto legitime congregata, præidentibus in eâ eisdem Apostolicæ Sedis Legatis, ad errores eliminandos, et extirpandas hæreses, quæ circa sanctissima ipsa Sacramenta hâc nostrâ tempestate, tum de damnatis olim à Patribus nostris hæresibus suscitatae, tum etiam de novo adinventæ sunt.” This, I presume, refers to the doctrines which had been recently advocated by the Reformers,—“tum etiam de novo adinventæ sunt, quæ Catholicæ Ecclesiæ puritati, et animarum salutis magnopere officiant, sanctarum Scripturarum doctrinæ, Apostolicis tradi-

tionibus, atque aliorum Conciliorum et Patrum consensui inhærendo, hos præsentēs canones statuendos, et decemendos censuit," &c.

The first Canon thus ushered in, is as follows,—“ Si quis dixerit, Sacramenta novæ legis non fuisse omnia à Jesu Christo, Domino nostro, instituta; aut esse plura vel pauciora quàm Septem videlicet, Baptismum, Confirmationem, Eucharistiam, Pœnitentiam, Extremam Unctionem, Ordinem, et Matrimonium; aut etiam aliquod horum septem non esse vere et proprie Sacramentum; anathema sit.” The Canon is, therefore, word for word in opposition to the Article, and an anathema is pronounced against all who hold the doctrine of the Article. So, again, Canon 4, in the same Session,—“ Si quis dixerit, Sacramenta novæ legis non esse ad salutem necessaria, sed superflua, et sive iis, aut eorum voto per solam fidem homines à Deo gratiam justificationis adipisci; licet omnia singulis necessaria non sint; anathema sit.” I think that I need not pursue the argument any further to shew the wide, important, and irreconcilable difference between the Church of England and the Church of Rome upon this point.

I shall, therefore, proceed to solicit the Court's attention to the twenty-eighth Article, which concerns the Supper of the Lord.—“ The Supper of the Lord is not only a sign of the love that Christians ought to have among themselves one to another, but rather is a Sacrament of our Redemption by Christ's death; insomuch that to such as rightly, worthily, and with faith receive the same, the Bread which we break, is a partaking of the Body of Christ; and likewise the Cup of Blessing is a partaking of the Blood of Christ.”

“ Transubstantiation (or the change of the substance of Bread and Wine) in the Supper of the Lord, cannot be proved by Holy Writ; but is repugnant to the plain words of Scripture, overthroweth the nature of a Sacrament, and hath given occasion to many superstitions.” I think I may venture to affirm that it would be impossible to frame a clearer denunciation of

the doctrine of Transubstantiation than is contained in the Article which I have just read to the Court. And it continues in the same strain,—“The Body of Christ is given, taken, and eaten, in the Supper, only after an heavenly and spiritual manner. And the mean whereby the Body of Christ is received and eaten in the Supper is Faith. The Sacrament of the Lord's Supper was not by Christ's ordinance reserved, carried about, lifted up, or worshipped.”

As applicable to the point at present under consideration, I would also call the Court's attention to the Rubric at the end of the Communion Service, “Whereas it is ordained in this office for the administration of the Lord's Supper, that the communicant's should receive the same kneeling; (which order is well meant, for a signification of our humble and grateful acknowledgment of the benefits of Christ therein given to all worthy receivers, and for the avoiding of such profanation and disorder in the Holy Communion, as might otherwise ensue); yet, lest the same kneeling should by any persons, either out of ignorance and infirmity, or out of malice and obstinacy, be misconstrued and depraved; It is hereby declared, That thereby no adoration is intended, or ought to be done, either unto the Sacramental Bread or Wine there bodily received, or unto any Corporal Presence of Christ's natural Flesh and Blood. For the Sacramental Bread and Wine remain still in their very natural substances, and therefore, may not be adored; (for that were Idolatry, to be abhorred of all faithful Christians); and the natural Body and Blood of our Saviour Christ are in Heaven, and not here; it being against the truth of Christ's natural Body to be at one time in more places than one.”—So that the doctrine of the Church in her Articles, and in the office of the Communion in her Book of Common Prayer, entirely and perfectly agree, and, as will hereafter appear, are equally opposed to the Roman doctrine.

But to prevent all possible misconception, I shall refer the Court to the opinions of some of our learned writers. And first to a work entitled “*Protestatio Ridley*,” written by Bishop

Ridley, who was martyred at Oxford, in the reign of Queen Mary, A.D. 1555. The passage I refer to is to be found in Bishop Randolph's *Enchiridion*, vol. 1, page 82. Giving an account of the propositions submitted to him by the Roman Catholic Commissioners, he tells us the first was, "In Sacramento altaris virtute verbi Divini a sacerdote prolati, præsens est realiter sub speciem panis et vini, naturale Corpus Christi, conceptum de Virgine Maria.—Item naturalis ejusdem sanguis." He then gives his answer, "In rebus Dei non est humano aut sæculi sensu loquendum. Prima igitur propositio vel conclusi formata est phrase à sacrâ Scripturâ aliena, et multis ambiguis obscuritatibus involuta et implicata. In sensu autem quem docent scholastici et hodie Romanensis defendit Ecclesia, falsa est et erronea, atque doctrinæ, quæ secundum pietatem est, planè contraria." He then enters upon his "Explicatio," with which it is unnecessary to trouble the Court, further than with the concluding passage at page 84. "Falsitas autem propositionis in sensu Romanensis Ecclesiæ et Scholasticarum hinc patere protest. Illi enim ponunt panem transsubstantiari in carnem assumptam a verbo Dei, idque (ut aiunt) per virtutem verbi, quod illi conceptis vocibus formarunt, quod quidem in nullo reperiri possit Evangelistarum, nec in Paulo: atque inde colligunt corpus Christi realiter contineri in sacramento altaris: quæ positio nititur et fundatur super fundamentum transsubstantiationis, quod est fundamentum monstrosum, absurdum et analogiæ sacramentorum interemptivum. Idcirco et hæc propositio, quæ super hoc putre fundamentum superstruitur, falsa est et erronea, ac infami sacramentariorum errori merito deputanda." And for this faith, the venerable Bishop, whose words I have just quoted, not only wrote, but died.

The second proposition submitted to Bishop Ridley is in page 92. "Post consecrationem non remanet substantia panis et vini, neque ulla alia substantia, nisi substantia Dei et hominis." His answer is, "Secunda conclusio est simpliciter falsa; verbo Dei; naturæ sacramentorum; et patrum ortho-

doxorum clarissimis dictis ex diametro contraria, estque putre fundamentum reliquarum duarum, quæ a nobis propositæ sunt, videlicet primæ et tertiæ condusionum. Ad hanc igitur responsionem non morabar vos nunc ullâ explicatione, contentus scilicet ea quæ jam opposita est prius ad responsionem primæ propositionis."

The third proposition is to be found in page 97. "In missâ est vivificum Ecclesiæ sacrificium pro peccato tam vivorum quàm mortuorum propitiabile." And the Bishop replies—"Ad tertiam similiter ut ad primam respondeo, atque insuper dico eam in sensu quem verba videntur præ se ferre, non solum esse erroneam, sed adeo quoque esse mortis et passionis Christi derogativam, ut non immerito (meâ quidem sententiâ) in pretiosissimum sanguinem Christi Salvatoris blasphema censi et possit et debeat." Therefore, he considers this doctrine as other writers do, to be blasphemous.

To shew the Court that the Roman doctrine has not been misrepresented in these propositions submitted to Bishop Ridley, I will now, with its permission, refer to the Decree and Canons of the Council of Trent which were passed in the thirteenth Session, held on the 11th October, 1551.

THE COURT.—In respect to Bishop Ridley, this is before 1562, the date of the Articles.

The Queen's Advocate.—Yes, but he was one of the greatest reformers of our Church.

THE COURT.—Your proposition is that Mr. Oakeley has maintained doctrines contrary to the Thirty-nine Articles.

The Queen's Advocate.—These propositions give the doctrines which had been previously, as I shall now show, sanctioned by the Council of Trent. Indeed they had been long before that time the doctrine of the Church of Rome. Bishop Jewell, to whom I have referred, lived longer, but I admit he does not use such strong language as Ridley. With respect to Bishop Ridley's firmness, the Court will recollect, that when Queen Mary was on the throne, he considered, after the manner in which he had been treated, that he had done wrong

in not at once quitting the palace, and shaking the dust from off his feet.

To return to the Council of Trent.—I refer to the thirteenth Session, held on the 11th of October, 1551, and the first chapter, entitled, “*De reali præsentia Domini nostri Jesu Christi in Sanctissimo Eucharistiæ Sacramento.*—*Principio docet Sancta synodus et aperte ac simpliciter profitetur, in almo sancto Eucharistiæ sacramento, post panis et vini consecrationem, Dominum nostrum Jesum Christum, verum Deum atque hominem, vere, realiter, ac substantialiter sub specie illarum rerum sensibilibus contineri. Nec enim hæc inter se pugnant, ut ipse Salvator noster semper ad dexteram Patris in cælis assideat, juxta modum existendi naturalem.*”

Again, in chapter 3, a few lines from the beginning, “*Non-dum enim Eucharistiam de manu Domini Apostoli susceperant, cum vere tamen ipse affirmaret corpus suum esse quod præbebat; et semper hæc fides in Ecclesiâ Dei fuit, statim post consecrationem verum Domini nostri Corpus, verumque ejus sanguinem sub panis et vini specie unâ cum ipsius animâ et divinitate existere; sed corpus quidem sub specie panis et sanguinem sub vini specie ex vi verborum: ipsum autem corpus sub specie vini et sanguinem sub specie panis, animamque sub utrâque, vi naturalis illius connexionis et concomitantia, qua partes Christi Domini, qui jam ex mortuis resurrexit, non amplius moriturus, inter se copulantur; Divinitatem porro propter admirabilem illam cum corpore et animâ hypostaticam unionem. Quapropter verissimum est, tantundem sub alterutrâ specie, atque sub utrâque contineri; totus enim et integer Christus sub panis specie, et sub quavis ipsius speciei parte, totus item sub vini specie, et sub ejus partibus existit.*”

But the next chapter is still more important, because it uses the very term introduced into our Articles, and, therefore, shows more obviously the direct opposition of the one to the other.

“*Caput IV. De Transubstantione.*—*Quoniam autem Christus redemptor noster, corpus suum id quod sub specie panis offerebat, vere esse dixit, ideo persuasum semper in Ecclesiâ Dei fuit,*

idque nunc denuo sancta hæc synodus declarat, per consecrationem panis et vini, conversionem fieri totius substantiæ panis in substantiam Corporis Christi Domini nostri, et totius substantiæ vini in substantiam sanguinis ejus. Quæ conversio convenienter et propriè à sanctâ Catholicâ Ecclesiâ transubstantiatio est appellata."

Thus the Court has had laid before it a definition of the word Transubstantiation: first, in the English Articles of our Church; and secondly, in the decrees of the Council of Trent. The two Churches are here most distinctly opposed. One denies the doctrine; the other affirms it; and both attach the same meaning to the word. Then, I ask, how is it possible for a man at one and the same time to hold both these doctrines? It is utterly impossible—it cannot be. If Mr. Oakeley believes in Transubstantiation, (and he professes his belief generally in all Roman doctrine) he cannot be a sincere believer in the doctrines of the Church of England. How can he subscribe them? How can he, consistently with honesty, remain in the Church, whilst holding doctrines, not only diametrically opposed to those sanctioned by it, but which are condemned by it, "totidem verbis?" How can he expect to be allowed to disseminate such doctrines in print? If the Bishop were to pass over such an offence as this, there would be an end to all discipline whatever. There would be no advantage in having Articles of Faith, or laws to bind the Clergy to conformity with the doctrines and discipline of the Church of England. This Roman doctrine which he maintains among the rest, appears to me utterly irreconcilable with the Thirty-nine Articles, and therefore decisive of the case.

But before I quit this point, I would call the Court's attention to a passage in Bishop Jewell's *Apology*, which I quote as before from the Latin in Bishop Randolph's *Enchiridion*, p. 218. "Panem et vinum dicimus esse sacra, et coelestia Mysteria Corporis et Sanguinis Christi, et illis Christum ipsum, verum panem æternæ vitæ, sic nobis præsentem exhiberi, ut ejus corpus, sanguinemque per fidem vere sumamus: non

tamen id ita dicimus, quasi putemus naturam panis et vini prorsus immutari, atque abire in nihilum, quemadmodum multi proximis istis sæculis somniarunt, neque adhuc potuerunt unquam satis inter se de suo somnio convenire. Neque enim id Christus egit, ut panis triticeus abjiceret naturam suam, ac novam quandam divinitatem indueret sed ut nos potius immutaret, utque Theophylactus loquitur, transelementaret in corpus suum."

There are also two further passages in the Council of Trent to which I shall direct the Court's attention. The first occurs in the fifth chapter of the same thirteenth Session to which I before referred. The chapter is entitled "*De cultu et veneratione huic sanctissimo Sacramento exhibenda.*—Nullus itaque dubitandi locus relinquitur, quin omnes Christi Fideles pro more in Catholicâ Ecclesiâ semper recepto latriæ cultum, qui vero Deo debetur, huic Sanctissimo Sacramento in venerationem exhibeant." Therefore the consecrated elements are, according to the Roman doctrine, to be worshipped *latriæ cultu*, that is, with the highest character of worship, and which is due to God alone. Thus the bread and wine is not only converted into the actual Body and Blood of Christ, but is directed to be worshipped and adored as God Himself is alone to be worshipped and adored. This is directly opposed to our Article—that it is "not to be carried about, lifted up, or worshipped."

I proceed now to the thirtieth Article, entitled "Of both kinds.—The cup of the Lord is not to be denied to the lay people: for both the parts of the Lord's Sacrament, by Christ's ordinance and commandment, ought to be ministered to all Christian men alike." This, Sir, I think is not very consistent with the statement of the Council of Trent made in the twenty-first Session, which was held on the 16th of July, 1562 (Chapter 1)—"*Itaque sancta ipsa Synodus, a Spiritu sancto, qui Spiritus est sapientiæ, et intellectus, spiritus concilii et pietatis, edocta, atque ipsius Ecclesiæ judicium et consuetudinem secuta, declarat ac docet, nullo divino præcepto laicos;*

et clericos non conficientes, obligari ad Eucharistiæ Sacramentum sub utrâque specie sumendum; neque ullo pacto, salvâ fide, dubitari posse, quin illis alterius speciei Communio ad salutem sufficiat."

Again, in the second Chapter—"Præterea declarat, hanc potestatem perpetuo in Ecclesiâ fuisse, ut in Sacramentorum dispensatione, salvâ illorum substantiâ, ea statueret, vel mutaret, quæ suscipientium utilitati, seu ipsorum Sacramentorum venerationi, pro rerum, temporum, et locorum varietate, magis expedire judicaret. Id autem Apostolus non obscurè visus est innuisse, cum ait, 'Sic nos existimet homo ut ministros Christi, et dispensatores mysteriorum Dei,' atque ipsum quidem hâc potestate usum esse satis constat, cum in multis aliis, tum in hoc ipso Sacramento, cum, ordinatis nonnullis circa ejus usum, 'cætera, inquit, cum venero disponam.' Quare agnoscens Sancta Mater Ecclesia hanc suam in administratione sacramentorum auctoritatem licet ab initio Christianæ religionis non infrequens utriusque speciei usus fuisset, tamen progressu temporis, latissime jam mutatâ illâ consuetudine, gravibus et justis causis adducta, hanc consuetudinem sub alterâ specie communicandi approbavit, et pro lege habendam decrevit: quam reprobare, aut sine ipsius Ecclesiæ auctoritate pro libito mutare non licet." It therefore appears, that, though there is no Decree or Canon absolutely condemning the receiving of the Sacrament by the laity in both kinds, yet the Church of Rome approves and inculcates the taking it by the laity in one kind only. And in point of fact it is notorious, that the cup is not received by the laity. So that here we have again a contradiction to the Articles.

The thirty-first Article speaks—"Of the one Oblation of Christ finished upon the Cross. The Offering of Christ once made is that perfect redemption, propitiation, and satisfaction, for all the sins of the whole world, both original and actual; and there is none other satisfaction for sin, but that alone. Wherefore the sacrifices of Masses, in the which it was commonly said, that the Priest did offer Christ for the quick and

the dead, to have remission of pain or guilt, were blasphemous fables, and dangerous deceits." If this doctrine, therefore, of Masses be shewn to be that of the Church of Rome, then the Church of England calls it "a blasphemous fable and dangerous deceit." And that it is so, appears, I think, most evidently from the first Canon of the twenty-second Session of the Council of Trent; "*Si quis dixerit, in Missa non offerri Deo verum et proprium sacrificium, aut quod offerri non sit aliud, quam nobis Christum, ad manducandum dari: anathema sit.*" Therefore this Canon pronounces an anathema against any one who holds the doctrine of the Church of England on this point. Then again the third Canon: "*Si quis dixerit, Missæ sacrificium tantum esse laudis, et gratiarum actionis, aut nudam commemorationem sacrificii in Cruce peracti, non autem propitiatorium: vel soli prodesse sumenti: neque pro vivis et defunctis, pro peccatis, pœnis, satisfactionibus et aliis necessitatibus offerri debere: anathema sit.*" Thus all doubt is removed as to the same doctrine being referred to, for almost the same words are employed. Also the fifth Canon enacts: "*Si quis dixerit, imposturam esse, Missas celebrare in honorem Sanctorum, et pro illorum intercessione apud Deum obtinenda, sicut Ecclesia intendit: anathema sit.*"

And whilst I have before me the Canons, passed in this Session, I would refer to the ninth: "*Si quis dixerit, Ecclesiæ Romanæ ritum, quo submissâ voce pars Canonis et verba consecrationis proferuntur, damnandum esse; aut lingua tantum vulgari Missam celebrari debere; aut aquam non miscendam esse vino in calice offerendo, eo quod fit contra Christi institutionem: anathema sit.*" And here also other differences between the two Churches appear, for the Church of England maintains that the public services of the Church should be celebrated in the vernacular tongue, and provides that wine alone shall be used in the Sacrament.

I now pass on to the thirty-seventh Article, which respects the civil magistrates:—"The Queen's Majesty hath the chief power in this realm of England, and other her dominions,

unto whom the chief government of all estates of this realm, whether they be Ecclesiastical or Civil, in all causes doth appertain, and is not, nor ought to be, subject to any foreign jurisdiction."

"Where we attribute to the Queen's Majesty the chief government, by which titles we understand the minds of some slanderous folks to be offended; we give not to our princes the ministering either of God's word, or of the Sacraments, the which thing the injunctions also lately set forth by Elizabeth our Queen do most plainly testify; but that only prerogative, which we see to have been given always to all godly princes in Holy Scriptures by God himself; that is, that they should rule all states and degrees committed to their charge by God, whether they be Ecclesiastical or Temporal, and restrain with the civil sword the stubborn and evil doers."

Then follows this passage:—"The Bishop of Rome hath not jurisdiction in the realm of England." Now the supremacy was restored to the Crown by Act of Parliament from the usurpation of the Pope, but in the Decrees passed at the Council of Trent; we find the Church of Rome designated as "*omnium Ecclesiarum mater et magistra*." (Session 7, Canon 3). And again, in the fourteenth Session, chapter 7: "*Magnopere vero ad Christiani populi disciplinam pertinere, sanctissimis patribus nostris visum est, ut atrociora quædam et graviora crimina non à quibusvis sed à summis duntaxat sacerdotibus, absolverentur; unde merito Pontifices Maximi pro supremâ potestate sibi in Ecclesiâ universæ traditâ, causas aliquas criminum graviores suo potuerunt peculiari iudicio reservare.*" Also, Session 13, chapter 8. "*Causæ Episcoporum, cum pro criminis objecti qualitate comparere debeant, coram Pontifice Maximo referantur, ac per ipsum terminentur.*" Also, in the twenty-fourth Session, chap. 1; after having spoken of the making of Bishops and Cardinals, we read at the end: "*Postremo eadem saneta synodus, tot gravissimus Ecclesiæ incommodis commota, non potest non commemorare, nihil magis Ecclesiæ Dei esse necessarium, quam ut Beatissimus Romanus Pontifex, quanti*

solicitudinem universæ Ecclesiæ ex muneris sui officio debet, eam hic potissimum impendat, ut lectissimos tantum sibi Cardinales adsciscat: et bonos maxime atque idoneos pastores singulis Ecclesiis præficiat: idque eo magis quod ovium Christi sanguinem, quæ ex malo negligentium et sui officii immemororum pastorum regimine peribunt, Dominus noster Jesus Christus de manibus ejus sit requisiturus."

There are a great many Articles remaining, which I have passed over; but I think I have made it sufficiently apparent, that the doctrines held by the two Churches are entirely inconsistent, and repugnant the one with the other; and that if Mr. Oakeley publicly maintains in print as he has done, the doctrines of the Church of Rome, he does necessarily maintain doctrines repugnant to the Articles of the Church of England.

Supposing, then, that I have established the charge, that Mr. Oakeley is maintaining doctrines contrary to those of the Church of England, let us now see how the law applies to such a case. It may be as well first of all to advert to the statute of 13 Elizabeth, c. 12, which bears upon the question. That statute is entitled, "An Act for the Ministers of the Church to be of sound Religion," and the second section is in the following words, "And that if any person ecclesiastical, or which shall have ecclesiastical living, shall advisedly maintain or affirm any doctrine directly contrary, or repugnant to any of the said Articles, and being convented before the Bishop of the Diocese, or the Ordinary, or before the Queen's Highness's Commissioners in causes ecclesiastical, shall persist therein, or not revoke his error, or after such revocation eftsoon affirm such untrue doctrine, such maintaining or affirming, and persisting, or such eftsoon affirming, shall be just cause to deprive such person of his ecclesiastical promotions; and it shall be lawful to the Bishop of the Diocese, or the Ordinary, or the said Commissioners, to deprive such person so persisting, or lawfully convicted of such eftsoon affirming, and upon such sentence of deprivation pronounced he shall be indeed

deprived." According to this Statute, therefore, any clergyman putting forth or maintaining any doctrine contrary, or repugnant to the Articles is to be brought before the Court and deprived. And if Mr. Oakeley should hold any preferment, I presume under this statute that the Court has the power to deprive him of it.

The present proceeding is also brought under the Church Discipline Act, and that Act expressly defines what shall be considered as preferment, and in that definition clearly comprehends any appointment which may be held by Mr. Oakeley; for it extends the term preferment to "all Benefices with Cure of Souls, comprehending therein all Parishes, Perpetual Curacies, Donations, endowed Public Chapels, Parochial Chapelries, and Chapelries or Districts belonging to, or reputed to belong, or annexed, or reputed to be annexed, to any Church or Chapel; and every Curacy, Lectureship, Readership, Chaplaincy, Office or Place which requires the discharge of any Spiritual Duty, and whether the same be or be not within any exempt or peculiar jurisdiction." So that the Act enlarges the term "preferment" to the greatest possible extent. The Law, then, as it appears to me, must be applicable to the case, and a short review of the Canons passed in 1603, will, I think, shew that the offence is also an offence against them.

The first Canon relates to the King's Supremacy, and is connected with the thirty-sixth Canon, which requires subscription to the King's Supremacy over the Church of England in causes Ecclesiastical. I need not trouble the Court with going through them. They both assert the King's Supremacy: and any person holding Roman doctrine, does not hold this in respect of Ecclesiastical matters, but holds the Supremacy of the Pope.

The fifth Canon appears to me of some importance. Its title is "Impugners of the Articles of Religion, established in the Church of England censured." And it proceeds; "Whosoever shall hereafter affirm that any of the nine-and-thirty Articles agreed upon by the Archbishops and Bishops of both Provinces,

and the whole Clergy in the Convocation holden at London, in the year of our Lord God, 1662, for avoiding Diversities of Opinions, and for the establishing of consent touching true Religion, are in any part superstitious or erroneous, or such as he may not with a good conscience subscribe unto: let him be excommunicated *ipso facto*, and not restored, but only by the Archbishop, after his repentance and public revocation of such his wicked errors." The question, then, resolves itself into this; "Has Mr. Oakeley affirmed that these Articles are erroneous, or has he not?" He has not, I admit, done so *totidem verbis*, but he has in effect done so; for he has openly and publicly declared his assent to all the doctrines of the Church of Rome, which I have already shewn to be diametrically opposed to the Articles of the Church of England, and thereby, as I submit, he comes within the spirit and intent of this Canon.

The thirty-sixth Canon requires a certain subscription from all such as are to be made Ministers. "No person shall, hereafter, be received into the Ministry, nor either by Institution, or Collation, admitted to any Ecclesiastical living, nor suffered to Preach, to Catechize, or to be a Lecturer, or Reader of Divinity in either University, or in any Cathedral or Collegiate Church, City or Market Town, Parish Church, Chapel, or in any other place within this Realm, except he be licensed either by the Archbishop, or by the Bishop of the Diocese, where he is to be placed, under their hands and seals, or by one of the two Universities under their seal likewise; and except he shall first subscribe to these three Articles following, in such manner and sort as we have here appointed.

1. That the King's Majesty, under God, is the only Supreme Governor of this Realm, and of all other His Highness's Dominions and Countries, as well in all Spiritual or Ecclesiastical things, or causes, as Temporal; and that no Foreign Prince, Person, Prelate, State or Potentate, hath, or ought to have, any Jurisdiction, Power, Superiority, Pre-eminence or Authority, Ecclesiastical or Spiritual, within His Majesty's

said Realms, Dominions and Countries." I have already shewn, that, if Mr. Oakeley believes and maintains the Roman doctrine, he impugns this, because, according to the Roman doctrine, the Pope is the Head of the Church.—The 2nd, relates to the Book of Common Prayer.—And the 3rd, is "That he alloweth the Book of Articles of Religion agreed upon by the Archbishops and Bishops of both Provinces, and the whole Clergy in the Convocation holden at London in the year of our Lord God, 1562, and that he acknowledgeth all and every the Articles therein contained, being in number nine-and-thirty, besides the ratification, to be agreeable to the Word of God." Thus he is to affirm of all that they are agreeable to the Word of God, and yet Mr. Oakeley professes to believe doctrines which are essentially and fundamentally different from them to be also agreeable to the Word of God. "To these three Articles, whosoever will subscribe, he shall for the avoiding of all ambiguities, subscribe in this order and form of words, setting down both his Christian and surname, viz. *I, N. M., do willingly and ex animo subscribe to these three Articles above mentioned, and to all things contained in them.*" A penalty is then declared against any Bishop who ordains without requiring subscription to these Articles; and again, subscription is required before a diocesan in certain cases.

The fifty-ninth Canon directs, that "Every Parson, Vicar, or Curate, upon every Sunday and Holy Day, before Evening Prayer, shall, for half an hour or more, examine and instruct the youth and ignorant persons of his parish, in the Ten Commandments, the Articles of the Belief, and in the Lord's Prayer; and shall diligently hear, instruct, and teach them the Catechism set forth in the Book of Common Prayer." If the Minister is to do this, he is, among other things, to teach them that there are only two Sacraments "generally necessary for salvation." But Mr. Oakeley does not believe this; on the contrary, he adds five more; for as I have shewn, the Church of Rome puts all on an equal footing, and considers that there are seven of equally binding authority.

The sixty-sixth Canon is to this effect,—“Every Minister being a Preacher, and having any Popish recusant or recusants in his parish, and thought fit by the Bishop of the diocese, shall labour diligently with them from time to time, thereby to reclaim them from their errors.” How, I ask, is Mr. Oakeley to reclaim any Popish recusant from his errors?

THE COURT.—Has he any in his parish?

The Queen's Advocate.—He may have.

THE COURT.—It seems hardly necessary to refer to this Canon, as it is, in point of fact, scarcely applicable to the present times.

The Queen's Advocate.—Perhaps not; and, therefore, with the Court's permission, I will pass on to the 110th Canon, leaving the Canon to which I just adverted to the superior judgment of the Court.

THE COURT.—I am placed in this uncomfortable situation; that I am to have no arguments offered on the other side, so that this is an *ex parte* argument, and to be left unanswered, unless by the Court. It may, indeed, be intended to read some answer, but I am not informed that it will be done.

The Queen's Advocate.—I have no information upon that point, but I am quite ready to leave the matter to the Court. I have but little further to offer.

THE COURT.—I wish to hear you as fully as possible. I wish you not to abridge your arguments, but to carry them out fully, as I must be satisfied upon all the points of the case.

The Queen's Advocate.—I will just revert to the 110th Canon, but I do not press it.

THE COURT.—You must not consider that I am stopping you if I throw out a suggestion. If there were any reply, I should not do so.

The Queen's Advocate.—I feel obliged to the Court for its remarks, and will, therefore, without further apology, refer to the 110th Canon concerning Schismatics,—“If the Churchwardens, or Questmen, or Assistants do or shall know any

man within their parish, or elsewhere, that is a hinderer of the Word of God to be read or sincerely preached, or of the execution of these our constitutions, or a fautor of any usurped or foreign power,"—directly pointing to the Church of Rome,—“by the laws of this realm justly rejected and taken away, or a defender of Popish and erroneous doctrines, they shall detect and present the same to the Bishop of the diocese, or Ordinary of the place, to be censured and punished according to such Ecclesiastical Laws as are prescribed in that behalf.” Whatever the doctrine of presentment may now be, I think this Canon must be so far in force, that if the Minister is a “maintainer of a foreign power,” or “a defender of Romish doctrine,” as stated here, it is the duty of the Churchwardens to present him to the Bishop. I apprehend that whatever toleration may have taken place in regard to Schismatics or Papists, it is still the duty of the Churchwardens, under the authority of this Canon, to present a Minister who is a defender of Romish doctrine to the Bishop. Mr. Oakeley is undoubtedly an abettor of such doctrines, for he declares and publishes to the world, that he holds all Roman doctrine. And, therefore, it would be still the duty of the Churchwardens to present such a person.

The 114th Canon states, that “Every Parson, Vicar, or Curate, shall carefully inform themselves every year hereafter, how many Popish recusants, men, women, and children, above the age of thirteen years, and how many being Popishly given (who though they come to the Church, yet do refuse to receive the Communion) are inhabitants.”

Now Sir, it appears to me that the Statute, and the several Canons, to which I have called the attention of the Court, bear directly upon the present question, shewing that a person acting as Mr. Oakeley is charged to have done, is amenable to the Ecclesiastical Law of the land. The admissions made by Mr. Oakeley in Acts of Court, together with the Articles which have been given in, demonstrate that he has published

the Pamphlet with which he stands charged, and containing the obnoxious passages which I have read; and in this publication, which he admits to be his, he publicly upholds the doctrines of the Church of Rome. I have shewn that those doctrines are in very many respects contrary to the doctrines of the Church of England, as set forth in the Thirty-nine Articles. The Law, then, does not allow such a proceeding on the part of a Clergyman, and he is liable to be called in question for it before this Court. He has been brought up for the judgment of this Court, and I submit that by the Ecclesiastical Law of the land he ought to be punished according to his offence and the exigency of the law.

THE COURT.—I wish to point your attention to a matter, to which I should not have adverted, had there been Counsel upon the other side. You lay your charge generally, that Mr. Oakeley has supported Romish doctrine, that is, some one or other of the doctrines of that Church. I should wish you to point out the particular Articles upon which you mean to insist as having been impugned.

The Queen's Advocate.—I refer to the several Articles which I have already pointed out.

THE COURT.—Do you mean to say that he upholds the Church of Rome?

The Queen's Advocate.—He upholds *all* Roman doctrine.

THE COURT.—Then, as I understand it, you say that in holding *all* Roman doctrine he necessarily includes all those different doctrines to which you have referred, and which are contrary to the Articles of the Church of England.

The Queen's Advocate.—Yes. He upholds generally the doctrines of the Church of Rome, and many of these are opposed to the Church of England.

THE COURT.—Can you point out any cases wherein the pleading has been as general as in the present case? Also, I must ask you as to the 13 Elizabeth, c. 12, to which you have referred, whether you mean to call upon the Court to pro-

nounce its judgment under that Act, or under the Church Discipline Act? If I pronounce judgment under the 13 Eliz., must I not first call upon Mr. Oakeley to recant?

The Queen's Advocate.—I think so, if the Court goes upon that Statute. But I do not wish to press the matter to that extent: for I doubt, if the preferment Mr. Oakeley holds in the Diocese of London, be sufficient to bring the case within the 13th of Elizabeth. I think, however, it is clearly preferment under the Church Discipline Act.

THE COURT.—Your prayer is only general, that he may be canonically punished according to his offence. Let me ask you what is your notion of the nature of such punishment under the general law?

The Queen's Advocate.—I apprehend it would include a revocation of his license, a prohibition to officiate, and suspension at the same time. We submit that entirely to the superior wisdom of the Court.

THE COURT.—I should wish you to furnish me with some instances in which proceedings have been had in any degree analogous to the present.

The Queen's Advocate.—There was the late case of *Saunders v. Head*. Also there was a case in the Arches in 1692, the Office of the Judge promoted by *Salter v. Davies*.

THE COURT.—How were the Articles laid in *Saunders v. Head*?

The Queen's Advocate.—I have them here.

THE COURT.—I cannot, in my judgment, advert to the proceedings without giving counsel an opportunity of showing how far they are similar to the present proceedings. How was the offence laid in *Saunders v. Head* after the first proceeding?

The Queen's Advocate.—Rather than answer the Court hastily I would reserve the point for the present. In Mr. Stone's case, who was cited for preaching against the doctrine of the Trinity, the law was set forth in the Articles; but that was a special offence under the statute. The Court will, however, observe that Mr. Oakeley's statements are entirely general.

[**THE COURT.**—Mr. Stone was called upon to recant, or retract, which ever is the expression used. Where is *Salter v. Davies* reported?

The Queen's Advocate.—It is only to be found in the proceedings in the registry of the Court. Dr. Addams took great pains to collect the heads of the case.

THE COURT.—Was not that case in the Delegates?

The Queen's Advocate.—Yes; the case came up by appeal from Lincoln. But I do not see any particular law specified in it.

THE COURT.—There was no necessity in *Saunders v. Head* to specify any particular law.

The Queen's Advocate.—Proceedings of this kind, as the Court is aware, have been very few for the last one hundred and fifty years.

THE COURT.—Mr. Head's was to a certain extent an offence against the Rubric, was it not, and also an offence against the Canons as to the duty of a clergyman to catechise the children?

The Queen's Advocate.—Mr. Head wrote a statement setting forth the absurdity of the Church of England in respect to the doctrine of Baptism, and other matters, which he published in "*The Western Herald*."

THE COURT.—I remember no case where the charge has been so general as in the present.

The Queen's Advocate.—No: but here the offence is general, and includes almost all the Thirty-nine Articles, or, at any rate, a great number of them.

THE COURT.—You charge him with holding doctrines contrary to those of the Church of England. I presume you intend this to be collected from the Pamphlet which he has published.

The Queen's Advocate.—Yes.

THE COURT.—You say he affirms, among other things, that the Pope has spiritual authority in this country. Now, how far do you charge him with going on this point?

The Queen's Advocate.—I presume as far as all Roman

Catholics go. I should submit that a clergyman of the Church of England has no right—

THE COURT.—How far does this tenet affect the safety of the Crown?

The Queen's Advocate.—I do not thoroughly understand the Court's question.

THE COURT.—I mean as to the oath that no Pope hath, or ought to have any jurisdiction.

The Queen's Advocate.—That oath is not taken by Roman Catholics. It was made by them such a matter of conscience that they refused it: and another oath has, therefore, in respect to them, been substituted for it. If Mr. Oakeley believes all the doctrine of the Church of Rome, he ought to take the Roman Catholic, and not the Protestant, oath.

THE COURT.—It is hardly fair to call upon the Court to determine such a question as this upon an *ex parte* argument: but that is not your fault.

Dr. Bayford.—I shall endeavour, Sir, in the observations I have to offer, to present the Court with as much new matter as possible, in order that I may lay before it, upon which to found its judgment, as large a view of the subject as the circumstances of this case permit.

The Court sees that the statements of Mr. Oakeley in his Pamphlet, which have led to the present proceedings, are of the most general character. He speaks of Roman doctrine—of all Roman doctrine, and announces his right to hold it; and defines it by a reference to the Council of Trent. Therefore, Mr. Oakeley stands before the Court, as publicly maintaining in this Pamphlet, the doctrines affirmed by the Council of Trent: for he himself specifically refers to that Council, in explanation of his meaning.

Her Majesty's Advocate has already pointed out some of the leading doctrines of that Council, and shewn how irreconcilable they are with the Articles of the Church of England,

and he has also shewn that, although in 1552, when the Articles were first drawn up, and in 1562, when they were revised, the Council of Trent was still sitting, yet that, at the first of these dates, many of the most important Decrees of the Council of Trent had been passed, and that in 1562 still further Decrees had been made. So that, it appears, there is only one subject of importance to the present case, *viz.* that of Purgatory, upon which any Decree of the Council of Trent was passed, subsequent to the sitting of the Convocation in 1562. And even, in respect of that single Decree, it has been shewn, that the Council of Trent, in an earlier Session, had pledged itself to the doctrine therein contained. Thus, in point of fact, this doctrine forms no exception to the general position that our Articles are drawn up in direct opposition to the Decrees of the Council of Trent. I merely advert to these facts, because *Her Majesty's Advocats* has already presented the details to the notice of the Court, and I should, therefore, only waste time were I again to pass over the same ground. I, therefore, wish to rest upon these matters as already established, and to take up the argument at this point.

I consider, therefore, that relying upon the argument of *The Queen's Advocate*, I may assume, that the Articles of the Church of England, as they now stand, after the two reviews of them in 1562 and 1572, are, in point of fact, directly opposed to the Decrees of the Council of Trent.

And I now, therefore, proceed to call the Court's attention more particularly to the history attending the framing of those Articles, because I feel sure, that (if the slightest doubt could remain) that history will shew, that it is not merely fortuitously that we now find them opposed to the doctrine of the Church of Rome, but that the persons employed in framing, drawing up, and maturely considering those Articles, intentionally framed them as they now appear, having before them that very object, which it has been shewn they have attained.

I shall first call the Court's attention to a note to the first

volume of Dr. Cardwell's *Synodalia*, containing quotations from different authors with respect to the framing of the Articles in 1552. The portion of the note to which I refer is taken from Archbishop Lawrence's *Bampton Lectures*, and is in these words—"These Articles, forty-two in number"—The Court is aware they were originally forty-two—"the first that were constructed by the Church of England on the principles of the Reformation, were indebted to the clear theological distinctions of Melancthon and other Reformers of Germany, and derived more especially from the Confession of Augsburg." If that were the source from which their compilers drew them, it cannot be doubted that they had a Protestant origin. And still further—in respect of the revised Articles of 1562, there is another note at page 35, containing a second quotation from Archbishop Lawrence, which shews, that for the alterations and emendations then made in the Articles, we are also principally indebted to a Protestant source. The account is, "Dr. Parker had been appointed Archbishop of Canterbury in 1559, and immediately issued, in conjunction with other Bishops, instructions for the directions of the Clergy, founded upon the Queen's Injunctions, and intended to be used provisionally, until the state of the Church should have been fully considered in Convocation. In the meantime the Visitors appointed by the Queen were making their progress throughout the kingdom, and under the exercise of their authority, the Church of England was rapidly contracting a bias in favor of the Reformed faith. It followed, therefore, as a natural result, that the Convocation which met on the 12th of January, 1563, though it contained persons of different religious sentiments, and some who had imbibed extreme opinions from their residence on the Continent, consisted entirely of Reformers, and was disposed in general to adopt such cautious measures as the Archbishop, acting under the strict control of the Queen, would be likely to recommend. It appears that he had himself been recasting the Forty-two Articles of King Edward, assisted probably by his constant

friends Bishop Grindall (of London), Horne (of Winchester,) and Cox (of Ely), and that he added to the Articles, which had been mainly derived from the earlier Lutheran Creeds, some new clauses obtained from the more recent Confession of Wurtemberg." So that when Archbishop Parker, in 1562, was superintending the revision of the Articles, his own attention, and that of those by whom he was assisted, was again turned to the Protestant Confessions of Faith.

I next call the Court's attention to the nature of the alterations introduced into the Articles in 1562, because that appears to me rather important. I am about to refer to Bishop Burnet's *History of the Reformation*, where he gives in the Appendix the Articles as they were originally framed in King Edward's time, and also, the alterations introduced in the time of Queen Elizabeth. They will be found in the Collection of Records annexed to the First Book of the Second Part, and marked No. 55.

The object I have in view in this examination, is to shew that the tendency of the alterations in 1562, so far as the same appears, was to make the Articles more stringent against the Roman Creed.

To begin with the third Article. In Edward the Sixth's time it stood thus—"As Christ died for us and was buried, so also it is to be believed that he went down into Hell: *For his body lay in the grave till his resurrection, but his soul being separate from his body, remained with the spirits which were detained in prison, that is to say in Hell, and there preached unto them.*" In 1562, the latter portion of the Article, commencing with the words "For his body," was struck out, and the effect of the alteration, therefore, obviously was, to erase from the Article all expressions which might be adduced in favour of Purgatory. Whether the Article, as it originally stood, was liable to such a construction, I need not stop to inquire.

I pass on to the fifth Article. The Court is aware that the numbers of King Edward's Articles do not exactly correspond with the numbers as they now stand, but for the present pur-

pose, I shall use King Edward's numbers. As this fifth Article originally stood, it merely declared—"Holy Scripture containeth all things necessary to salvation; so that whatsoever is not read therein, nor may be proved thereby, *although sometimes it may be admitted by God's faithful people as pious, and conducing unto order and decency*; yet is not to be required of any man that it should be believed as an article of the faith, or be thought requisite or necessary to Salvation." The Court has just heard at length the Article corresponding to this in the revised Articles of 1562, and will remember that the Canonical Books are therein enumerated—the Apocryphal Books are distinguished from the Canonical, and the value and importance of each distinctly laid down—and the Court has already been shown that these alterations have the effect of rendering the Article more directly opposed to the decrees of the Council of Trent.

In the fifteenth Article, entitled "Of the sin against the Holy Ghost," an alteration has been made which produces a similar effect. Originally the end of that Article stood thus,—
 "And therefore they are to be condemned, who say they can no more sin so long as they live here, or deny the *place of penance* to such as truly repent:" the word 'penance' was in 1562 altered to 'forgiveness.'

At the end of the seventeenth, "Of Predestination and Election," occurs an alteration in favour of a portion of the Protestants of the day. The passage stood thus:—"Furthermore, *though the decrees of Predestination be unknown to us*, yet must we receive God's promise in such wise as they be generally set forth to us in Holy Scripture." This reference to the Decrees of Predestination was in 1562 omitted, and Bishop Burnet informs us, that the omission was made in order to *favor* a certain party among the Protestants: which is remarkable as contrasted with the other alterations *against* the Roman Catholics.

The twentieth Article, declaring that "the Church of Rome hath erred," remains untouched.

The twenty-third, "Of Purgatory," stood originally thus:—"The doctrine of the *schoolmen* concerning Purgatory," and so forth. In the second Articles the expression "doctrine of schoolmen" is changed into "the Romish doctrine," thereby pointing it more strongly against the Roman Catholics than it was originally drawn.

The twenty-fifth was written thus:—"It is most fit and most agreeable to the word of God, that nothing be read or rehearsed in the Congregation, in a tongue not known unto the people; which Paul hath forbidden to be done, unless some be present to interpret." This is altered to—"It is a thing plainly repugnant to the word of God, and the custom of the primitive Church, to have public prayers in the Church, or to minister the Sacraments in a tongue not understood of the people." The condemnation of the error is therefore substituted for the affirmation of the truth.

Also the 26th, as to the Sacraments, in the first instance stood simply thus:—"Our Lord Jesus Christ gathered his people into a Society, by Sacraments very few in number, most easie to be kept, and of most excellent signification; that is to say, Baptism and the Supper of the Lord." It did not, however, go on, as the present Article does, to declare that the other five Sacraments were not to be accounted Sacraments of the Gospel, which, as the Court has seen, the Romanists affirm, and consequently the alteration tends to a more specific condemnation of their doctrine.

The next Article is the twenty-ninth,—"Of the Lord's Supper," and that has been supposed not to follow the general principle, which I have stated. The alteration, however, appears to me to be rather one of words than of substance. The proposition originally declared in the Article, is maintained, and, as it appears to me, without deducting anything from its force. And Bishop Burnet, (although in the second part of his History of the Reformation, he states, that it was altered to favor the Roman Catholics) in the third part of his work, page 301, declares his conviction, that in making it "great

regard was likewise had to the Lutheran Churches." To enable the Court to judge—The original Article was—"Transubstantiation (or the change of the substance of the bread and wine) in the Supper of the Lord, cannot be proved by Holy Writ; but it is repugnant to the plain words of Scripture, and hath given occasion to many superstitions." The Article at present stands—that Transubstantiation "is repugnant to the plain words of Scripture, overthroweth the nature of a Sacrament, and hath given occasion to many superstitions;" and so far the expressions are stronger. But the former Article also contained some reasoning upon the subject to this effect, "since the very being of human nature doth require, that the body of one and the same man, cannot be at one and the same time in many places, but of necessity must be in some certain and determinate place; therefore the body of Christ cannot be present in many different places at the same time. And since (as the Holy Scriptures testify) Christ hath been taken up into Heaven, and there is to abide till the end of the world; it becometh not any of the faithful to believe or profess, that there is a Real or Corporal presence (as they phrase it) of the Body and Blood of Christ in the Holy Eucharist." Although that passage was omitted in the later Articles, yet, as I have stated, in other respects, they are made stronger against the Church of Rome; and the present Article, independent of this reasoning, embraces all the doctrinal matter contained in the former one.

I now come to the thirtieth Article,—“The offering of Christ once made, is a perfect redemption, propitiation, and satisfaction for all the sins of the whole world, both original and actual, and there is none other satisfaction for sin but that alone. Wherefore the sacrifices of Masses, in which it was commonly said, ‘That the Priests did offer Christ for the quick and the dead to have remission of pain or guilt,’ were fables and dangerous deceits.” Into this Article, upon the revision in 1562, the word “blasphemous” was introduced, and the sentence now stands, “were blasphemous fables.” Therefore,

here again, we perceive that the alteration renders the Article stronger against the Roman doctrine.

I think, Sir, from this examination (short as it has been) I have demonstrated that there was no tendency in the minds of those, who revised the Articles in Queen Elizabeth's days, to bring them nearer to the Roman doctrine, inasmuch as all the alterations which I have pointed out, have obviously the contrary tendency, and render the differences between the two Churches more striking to the reader.

I will now proceed to the History, given by Strype, of the incidents attending the framing of these Articles in 1562. And the better to introduce this, I will first refer to a passage in the second part of Bishop Burnet's "*History of the Reformation*," page 387,—“The Popish Clergy were now every where beginning to declaim against innovation and heresy. Harpsfield had, in a Sermon, at Canterbury, in February, stirred the people much to sedition, and the members belonging to that Cathedral had openly said, that Religion should not, nor could not be altered. The Council also heard that the Prebendaries there had bought up many arms. So a letter was written to Sir Thomas Smith to examine that matter. Harpsfield was not put in prison, but received only a rebuke. There came also complaints from many other places of many seditious Sermons. So the Queen, following the precedent her sister had set her; did, in the beginning of March, forbid all preaching, except by such as had a license under the Great Seal. But lest the Clergy might now in the Convocation set out orders in opposition to what the Queen was about to do, she sent and required them, under the pains of a *præmunire*, to make no Canons. Yet, Harpsfield, that was prolocutor, with the rest of the Lower House, made an address to the Upper House, to be by them presented to the Queen, for the discharge of their consciences. They reduced the particulars into five Articles. 1, That Christ was corporally present in the Sacrament. 2, That there was no other substance there but his Body and Blood. 3, That in the Mass there was a propitiatory sacrifice

for the dead and the living. 4, That St. Peter and his lawful successors had the power of feeding and governing the Church. 5, That the power of treating about doctrine, the Sacraments, and the order of divine worship, belonged only to the pastors of the Church. These they had sent to the two Universities, from whence they were returned, with the hands of the greatest part in them to the first four ; but it seems they thought it not fit to sign the last : For now the Queen had resolved to have a public conference about religion in the Abbey Church of Westminster." And that public conference was subsequently held ; so that the Court sees the reign of Queen Elizabeth opened by her silencing preachers, and the Lower House of Convocation presenting a petition to the Queen, which issued in a public controversy between the Roman Catholics and the Protestants.

The history is then taken up by Strype in the first volume of his *Annals* (p. 213, fol. ed.). I am commencing it just after the Queen had issued her famous Injunctions.—“ Another thing was now drawn up in writing by the archbishops and bishops for the further regulation of the inferior clergy. This paper consisted of *interpretations and further considerations* of certain of the Queen's *Injunctions* for the better direction of the clergy, and for keeping good order in the Church. It was framed, as it seems to me, by the pen of Cox, Bishop of Ely, and revised by the Archbishop, and was as followeth,”—Then the paper is given at length.—It is curious to know that this paper is still preserved, and that corrections in the handwriting of Archbishop Parker are still to be seen upon it.

At page 215 (fol. ed.) we are furnished with some of these “ Interpretations ” to the following effect :—“ That the order of the Articles prescribed to ministers be inserted in this form, *ut infra*. That one brief form of declaration be made, setting out the principal Articles of religion ; the rather for the unity of doctrine in the whole realm : especially to be spoken by the parsons, curates, or both, at their first entry ; and after, twice

in the year, for avoiding all doubt and suspicion of varying from the doctrine determined in the realm."

Strype speaks further of these proposed Articles for ministers, and at page 216 adds, "much was done not long after according to this reformatory platform," and explains his meaning by saying, "And Articles of Faith to be subscribed to by ministers, and the form of declaration to be by them openly spoken and professed, were likewise framed." The Court will remember that this was before the Convocation of 1562 was assembled. Thus the Articles, of which Strype is speaking in the passage I have read, formed a sort of preliminary step; and, therefore, the account casts light upon the course subsequently pursued.

It was, then, arranged that certain formal Articles should be subscribed; and Strype gives us their contents as follows: "*S. Scriptura in se continet omnem doctrinam pietatis:*"—which the Court will observe, though in a shorter form, contains the substance of our present sixth Article, and, consequently, is opposed to the doctrine of the Church of Rome—"ex quâ sufficienter et error omnis convinci possit, et veritas stabiliri."—It then proceeds,—"*Ecclesia Christi est, in quâ purum Dei verbum prædicatur, et Sacramenta juxta Christi ordinationem administrantur: et in quâ clavium autoritas retinetur.*"—It goes on—"Sacramentum Eucharistiæ [neque ex præcepto] neque ex usu primævæ Ecclesiæ aut servabatur, aut circumferabatur, vel elevabatur, ut adoretur." We have here almost the very words subsequently employed in our present Articles. As to the Mass they say,—"*Missa, ut consuevit à sacerdotibus dici, non erat à Christo instituta, sed à multis Romanis Pontificibus consarcinata, nec est sacrificium propitiatorium pro vivis et defunctis.*" This is as plainly directed against the Roman doctrine as our present 31st Article.—Then, "*Scholastica transubstantiatio panis et vini in corpus et sanguinem Christi probari non potest ex sacris literis.*"—And again, "*Doctrina scholasticorum de purgatorio, et invocatione divorum, nullum habet fundamentum ex verbo Dei.*"—And at the end are to be

found the following words :—"Hæc omnia vera esse et publice docenda profitemur, eaque juxta datam nobis facultatem et eruditionem tuebimur et docebimus. Hancque nostram confessionem manuumstrarum subscriptionibus testificamur, contrariamque doctrinam abolendam esse judicamus, et detestamur." So that as far as any light can be thrown upon the design of our present Articles by the intention of those who prepared and revised them, nothing can be plainer than their intention to point them against the Roman doctrine.

The next step taken was to draw up a summary of faith, if I may so term it, which was subsequently printed, and which was directed to be read by parsons, vicars, and curates at their possession-taking, or first entry into their cures and twice a year afterwards. And Strype also gives us the form of this declaration (as it was termed) in the following words :—"Forasmuch as it appertaineth to all Christian men, but especially to the ministers and pastors of the Church, being teachers and instructors of others, to be ready to give a reason of their faith, when they shall be thereunto required, I, for my part, now appointed your minister, vicar, or curate, having before my eyes the fear of God, and the testimony of my conscience, do acknowledge for myself, and require you to assent to the same." And, then after some things to which I need not refer.—"Fifthly, Furthermore I do acknowledge the Queen's Majesty's prerogative and superiority of government of all states, and in all causes, as well ecclesiastical as temporal within this realm and other her dominions and countries, to be agreeable to God's word, and of right to appertain to her Highness, in such sort as is in the late Act of Parliament expressed, and sithence by her Majesty's injunctions declared and expounded."—"Sixthly, moreover, touching the Bishop of Rome, I do acknowledge and confess, that by the Scriptures and the Word of God, he hath no more authority than other bishops have in their provinces and dioceses. And, therefore, the power which he now challengeth, that is, to be Supreme head of the universal Church of Christ, and so to be above all emperors, kings, and

princes, is an usurped power, contrary to the Scriptures and Word of God, and contrary to the example of the primitive Church. And therefore, is for most just causes taken away, and abolished within this realm." Then at the end of the Seventh, speaking of the Book of Common Prayer:—"That it is Catholic, Apostolic, and most for the advancing of God's glory, and the edifying of God's people, both for that it is in a tongue that may be understood of the people, and also for the doctrine and form of ministration contained in the same.—Ninthly, Moreover, I do not only acknowledge that private masses were never used among the fathers of the primitive Church; I mean public ministration, and receiving of the Sacrament by the priest alone, without a just number of communicants, according to Christ's saying, 'Take ye and eat ye, &c.' but also that the doctrine which maintaineth the Mass to be a propitiatory sacrifice for the quick and the dead, and a means to deliver souls out of purgatory, is neither agreeable to Christ's ordinance, nor grounded upon doctrine apostolic: but contrariwise most ungodly and most injurious to the precious redemption of our Saviour Christ, and his only sufficient sacrifice, offered once for ever upon the altar of the cross." Nearly the same is said of receiving in both kinds: and it concludes,—“Last of all, as I do utterly disallow the extolling of images, relics, and feigned miracles,” and so forth,—and then —“These things above rehearsed, though they be appointed by common order, yet do I without all compulsion, with freedom of mind and conscience from the bottom of my heart, and upon most sure persuasion acknowledge to be true, and agreeable to God's word.” Strype then adds, “Such was the pastoral care of Archbishop Parker, by whom, I believe, this declaration was chiefly framed, that so all that came into livings, and served in the Church, might be purged of Popish doctrines and superstitions, and to make the best security he could of admitting none to officiate but such as consented to the Gospel, and took the profession thereof upon them.” Thus, the Court has before it a previous Act of Archbishop Parker's, and of the

others by whom the Articles were subsequently revised. They brought out this declaration in 1560, only two years before our present Articles were passed in Convocation, and its tenor proves that, even then, it was their fixed intention to oppose the Roman doctrine; and the plain opposition of the Articles of 1562 to the Church of Rome, proves that they adhered to that determination.

A case has been cited by the *Queen's Advocate*, respecting subscription to the Articles, after the passing of the Act of Parliament in 1571. And Strype gives several instances of persons suspected of being Papists, who were required to sign them after the passing of that Act. But there also occurs in Strype's *Annals*, an instance of subscription to the Articles being required before the passing of that statute. I allude to the case of Dr. Marshall, a doctor in divinity, who had been Dean of Christchurch, and who was supposed to hold Popish doctrines; and the test put to him of his orthodoxy, (and which was considered a sufficient test) was whether he would subscribe the Articles. The account is given under the year 1563, in the second part of the first vol. page 408, in these words:—
 “Dr. Marshall was a violent promoter of the Papacy, and enemy to all opposers of it in his university, under Queen Mary, where he reigned tyrannically. Which was the more noted, because under King Edward he seemed as forward the other way. He watched narrowly to have caught Jewel, when he fled from Oxford. One act that showed the man, was his digging up the body of Peter Martyr's wife out of her grave in Christ's Church, where she had been some years buried, and casting it into his dunghill. This and other doings of his in the former reign made him to be more watched in this. He lurked about in the north, and had been with the Earl of Cumberland; but was at last taken up, and being brought before the council, he was committed to the Bishop of London in custody. And on St. Thomas day made this formal subscription:—*Ego Richardus Martialis, sacre Theologiæ professor, olim Ecclesiæ Oxoniensis decanus, ad respondendum de negotio fidei coram reverendo in*

Christo patre, Domino Edmundo Londinensi episcopo, ex mandato illustrissimorum clarissimorumque virorum, ac dominorum meorum, sacræ regie majestatis consiliariorum postulatus, deliberatione maturâ satis habitâ, paucis hoc responsum volo; atque per scriptum præsens, cujus tenor subsequitur, plane respondeo.

"Articulis omnibus ac singulis, de quibus in Synodo Londinensi An. Dom. 1562, ad tollendam opinionum dissensionem, et firmandum in vera religione consensum, inter reverendiss. patres, D. D. Archiepiscopos, episcoposque utriusque provinciæ, necnon, universum clerum convenit: quibus omnibus articulis sereniss. Regina nostra D. Elizabetha Dei gratia, Angliæ, Franciæ, et Hiberniæ Regina, fidei defensor, &c., Regium suum præbuit assensum: Ego Richardus Martialis præfatus ultro volens consentiensque meâ manu subscripsi. Datum Londoni in Ædibus reverend. in Christ. patris, D. Edmundi Londinensi episc. superius nominati, 12^o Calen. Januariæ, festo D. Thomæ Apostoli."

Richardus Martialis meâ manu scripsi.

Strype informs us further, that this paper is indorsed in the Bishop of London's hand "*Copie of D. Marshall's Subscription,*" and that Dr. Marshall "would have given a more public testimony by word of mouth in St. Paul's, had not his death prevented." And there are other instances recorded where similar subscriptions having been made, the persons who made them were also required to preach a public Sermon, maintaining the truth of the doctrines which they had subscribed. Strype also gives a quaint summary of Dr. Marshall's history in the words of a writer of the times, viz. "That Marshall made a public retraction under Edward; returned to his vomit under Queen Mary; and under Queen Elizabeth he played the vagabond; but afterwards was taken and examined at London. Then again he changed his opinion. And if he had lived longer would have again testified it in Paul's pulpit."

From the foregoing passages the Court will perceive, that

within a year from the time when the Convocation sate, the Articles of the Church of England were used as a test against the Roman doctrines. I have also drawn the Court's attention to the opinions entertained by those who revised them prior to their being submitted to the Convocation. It seems, therefore, impossible to come to any other conclusion, than that they were (among other uses) designedly and intentionally drawn up for the express purpose of opposing the Roman doctrine.

I now beg to call the Court's attention to two Roman Catholic writers of that period, in order to shew the language in which they describe the events which were taking place in England. The first book which I am about to quote, was written by a Foreign Bishop named Osorius. It is in the form of a letter, and was addressed to Queen Elizabeth, immediately upon her accession to the throne, and was the work which opened the controversy, after the accession of Queen Elizabeth, between the writers of the Church of Rome, and those on the part of the Church of England.

After speaking of the Queen, and detailing at length the conduct which became a princess, Osorius, at page 15, writes thus,—“*Nihil gratius tibi debet esse, in tantâ religionis dissensione, quàm ab homine tuæ dignitatis cupidissimo, et ab omni cupiditate nefariâ remotissimo, et minimè veræ religionis ignaro de tantis rebus admoneri;*”—and after speaking of the confidence he had in her, he continues,—“*et cùm intelligerem, id quod erat in tuo regno de religionis sanctitate detractum non esse tibi, sed multis hominibus qui omnia juris atque religionis claustra, nescio quâ amentîâ vexati, revellere conantur, assignandum; quod autem non omnis religionis cultus interierit tuæ clementiæ et pietati tribuendum.*”—And further on; “*Postquam enim quorundam hominum importunitate, et audaciâ ab eâ religione discessum est, quæ à Christi et Apostolorum temporibus ad nostra usque tempora inviolata permansit; multique verborum lenociniis invitati ab eâ viâ deflexerunt, quam Christi discipuli munierunt:*”—It is unnecessary to go on with the passage. He speaks of the change, against which

he warns the Queen, and which it is his object to get her to discountenance in England. In page 24, addressing the Reformers, he exclaims—"Numquid est aliud, quod sit manibus vestris diruendum? Sacra, cæremonias, atque Sacramenta omnia funditus evertemus. Et hoc quidem etiam summum horrorem incestiat, opus est." He then addresses the Queen, "Cæremoniarum tu sanctitates et Sacramenta tollas, quæ Christus instituit? quæ Apostoli tradiderunt." In these terms he speaks of the work of the Reformation, against which he warns her, and beseeches her not to allow it a place in her kingdom. And after much to the same effect, with which I need not trouble the Court; in p. 38, he writes—"Quid igitur minus consideratè fieri potuit, quàm illorum auctoritate quempiam permoveri, ut ab antiquissima, et Sanctissima religione discederet, quæ Jesu Christi sanguine Sancita, Martyrum supplicio confirmata, Sanctorum hominum divinis monumentis illustrata, contra perditos hæreticorum conatus et tyrannorum impetus semper invicta, et eadem perpetuò ratione ad vos usque continuata permansit, ut religionem colerent novitate suspectam, auctorum flagitiis infamem, optimarum rerum interitu calamitosam, exitu diro et horrendo destestabilem?" In such language as this does the first Roman Catholic writer address Queen Elizabeth, whilst speaking of what he then thought would probably take place, viz. the introduction into this kingdom of that religion, which has since been expressed in the Thirty-nine Articles of our Church.

There is also another contemporary Roman Catholic writer named Sanders, who, in his work "*De Schismate Anglicano*," when giving an account of the consequences of the English Schism, as he is pleased to term it, at page 340, writes;—"Divisa autem omni Anglia in tres partes: ex tribus una non erat eo tempore hæretica, nec cupiebat aut probabat mutationem religionis, nedum postea, cùm sectæ permiciem esset experta." After describing some of the persons who composed these different classes, in the next paragraph he resumes:—

"Venerunt quoque in hanc ipsam sententiam nonnulli ex inferiori clero presbyteri et parochi, ecclesiarumque cathedralium vel collegiatarum Canonici non pauci, qui ex animo sectam damnabant, et aliquamdiu etiam à faciendis istis novis officiis propter conscientiam abstinebant; adeò quidem ut post diem à lege præscriptum, in quo vera sacra cessare, falsa ista inchoare oportuit, multa essent per totum regnum ad aliquod menses clausa templa; cum presbyteri veteres, schismatica sacra non lubenter facerent, et novorum ministrorum non esset adhuc tanta copia, ut tot locis inservirent."—Thus the Court sees, that, according to this writer, the merely being present at, and performing the offices of the Church, was a thing in which those, whom he elsewhere calls the good Catholics, and who were standing for the old religion, would willingly have no concern. He says they could not conscientiously do that, but were obliged to leave the Churches. If that were then the feeling with respect to the Church Service, how much more strongly would it apply to persons coming forward to subscribe the Articles, where the obnoxious doctrine of the Reformers would not merely be alluded to, but defined with the utmost precision? And if these Roman Catholics were not able to officiate in the public services of the Church, how much less is it consistent with the holding of Roman doctrine, that a man should subscribe our Articles; act under their authority; and profess to teach the doctrine which they prescribe.

A similar account of the desertion of the Churches by the Popish Clergy, is given by Strype, who first puts us in possession of the policy they intended to pursue, and then informs us how it was frustrated. In his first volume of "*The Annals*," part 1, page 104, he says:—

"As for the Popish Clergy, they looked with a very angry and displeasing eye upon them;" (that is, upon the exiles who then, in 1559, were beginning to return from abroad) "and of all things dreaded these learned men, lest they should take their places, and occupy room in the Churches. And they

seemed to make it one point of their policy, to keep the Protestant Ministers (as much as they could) from officiating there; and for that purpose, counselled the Priests and Curates then in possession of Ecclesiastical Preferments and Benefices, to comply with the Constitution of Religion that should be set up, that they might retain their parishes and places, and in the meantime, as opportunity served, exhort the people to hold and think well of their old superstitions." Thus, according to Strype, the policy which the Roman Catholics endeavoured to pursue, was to preserve their appointments as long as they possibly could, in order to keep the Reformers out; and, whilst so doing, to spread their own doctrine as widely and as covertly as possible. Strype tells us afterwards, how this policy was frustrated; and the Court may judge of the difficulties which the Book of Common Prayer threw in their way, by a fact stated at page 136, where, speaking of the time immediately following the day upon which the Book of Common Prayer was directed to be used, he says,—“Now, also, since many of the Churches were left destitute, the Ministers that remained, and that were put into the places of the Popish Priests, especially in London, were fain to serve three or four Churches on Sundays and Holidays in reading the Prayers and administering the Sacraments unto the people. And yet they sufficed not.” Also of the year 1562, he says, at page 289,—“The Church now, partly by former bad example, and partly by dislike of, and withdrawing themselves from the Service now established, had abundance of non-residents.” And to enable us to judge of the extent to which this proceeded, we have the state of the Dioceses of Norwich presented to us in page 368. He there writes,—“Soon after the Synod was over, or somewhat before, in April or May, letters were sent abroad from the Privy Council to all the Bishops, to understand the state of their Dioceses. And that under six Articles; the sum whereof was to inquire concerning the number of Chapels, Rectories, and Vicarages, how supplied, and how many of them void. But this search

was to be made as secretly as could be." He then speaks of the Diocese of Norwich, and says,—“ Within the Archdeaconry of Norwich 168 Rectories or Parsonages full, and had their Incumbents, and forty-one Vicarages full. The rest of the Parish Churches of that Archdeaconry, amounting to the number of eighty, void, but some served with Curates.” In the Archdeaconry of Norfolk he gives 182 void, but some served with Curates. In the Archdeaconry of Suffolk, 130 void, but many served with Curates; and in the Archdeaconry of Suffolk, forty-two void, and some served with Curates.”

Other passages in that volume also relate to the same circumstance in respect of other Dioceses, and coupled with the statement of Sanders the Roman Catholic historian, to whose work I have referred, clearly shew the vast number of Clergy, who, in consequence of introducing the present Church Service, were driven away, contrary to the policy which the Romish party had, in the first instance, determined to pursue. To retain their places was found to be impossible, and one Minister after another was obliged to leave his parish.

I now wish to bring before the Court another contemporary writer, Bishop Pilkington, who was driven abroad by the persecution in the reign of Queen Mary, and having returned to this country upon the accession of Queen Elizabeth, was subsequently made a Bishop. Among his works as published by the Parker Society, is a paper containing certain questions and answers, framed as it seems, by some Roman Catholic of his day, in order to persuade persons that the Reformation then proceeding was unsupported by any authority, and therefore, that they ought to oppose it. He first gives the question, then states the answer to it furnished by the Roman Catholic, and lastly gives his own answer. The first question occurs at page 617,—“ Which is the Catholic Church ?” The Roman Catholic replies to this by a variety of quotations from St. Jerome, St. Augustine, St. Cyprian, and others, and concludes.—“ If we will be members of Christ's Church, we must continue firmly in that faith and religion, that was sent

from the Apostolical see of Rome, by St. Gregory, into England, which faith and religion was planted and stablished by St. Augustine in this realm. St. Augustine stablished Mass and seven Sacraments to be used in the Latin tongue, as Gildas doth witness, and such manner of Divine Service as now is." I need not give the whole of Bishop Pilkington's answer; but his concluding sentence is—"We say also, that the Papists have divided themselves from this Church of Christ, making themselves Synagogues and Chapels, Gods, and religion of their own devising, as Micah did, contrary to God's word; and therefore the wrath of God hangs over them, except they return, how holy soever they pretend to be."

The second question proposed is, "Who is an Heretic?"—The answer given by the Roman Catholic writer is, "He that teaches, defends, or maintains any erroneous opinion against the decrees, judgment, or determination of Christ's Catholic Church, is an Heretic." Then the third is,—“Who is a Schismatic?” To which the Roman Catholic replies;—"He that is divided or separate from the unity of the Catholic Church in ministration, or receiving the Sacraments or Divine Service, is a Schismatic and in a state of perdition."

Bishop Pilkington answers these two questions at the same time, and in the course of so doing, thus expresses himself.—“And because ever under the Catholic Church he signifies Rome, we say that no country, which uses other ceremonies than they do, is in this case a Schismatic; for that their Romish orders and ceremonies be of their own devising for the most part, and not commanded by God, nor never were used generally in the universal Catholic Church, as I proved afore, and therefore they be free to use or not use, as shall be thought meet.” There are also a variety of other passages, in which he speaks to the same effect, but these may suffice for the present purpose, which is to contrast his expressions with those used by the writers on the other side. It appears, therefore, from the Roman Catholic as well as from the Protestant writers, that the Reformation introduced a vital and fundamental difference between the adherents of the two Creeds.

Now respecting the several doctrines which the Articles of the Church of England so plainly and emphatically condemn, namely, the Romish doctrine of Purgatory, pardons, worshipping and adoration of images and relics, invocation of Saints, prayers in a foreign language, transubstantiation, the reserving, carrying about, lifting up, and worshipping of the Eucharist, the withholding the cup from the laity, the sacrifices of Masses and the supremacy of the Pope:—a great many of these were only re-affirmed by the Council of Trent, and had been well known to be the doctrines of the Church of Rome for ages previously. And it cannot be, for one moment maintained of this Country, which had been so long subject to the Pope, and where for so many ages those doctrines had been taught and upheld, that the divines in it did not perfectly understand what they were doing, when they framed Articles purporting, upon the face of them, to be opposed to the peculiar doctrines of the Church of Rome. Therefore, even if a doubt existed, as to whether the Decrees of the Council of Trent were, in point of date, anterior to the Articles of the Church of England, and, therefore, not intentionally condemned by them; still, as Mr. Oakeley declares he holds, and claims a right to hold, all Roman doctrine, there can be no doubt whatever entertained, that the Articles were intentionally framed so as to oppose that doctrine. For the nature of Roman doctrine, upon the most material points, was, as well known before the Council of Trent was convened, as after it had separated, and the only question to be solved at Trent, was, whether the influence of the Protestant party would prevail to effect any modification of the Roman tenets. But this question was soon set at rest, and thenceforward no doubt could exist, that whatever had previously been the acknowledged doctrine of Rome, would necessarily receive the sanction of the Council.

I will now advert to the Decrees of one or two General Councils held before the Council of Trent; from which, I think, it will appear, that several of the most important

doctrines, sanctioned by that Council, had been authoritatively settled, as doctrines of the Church of Rome, long before that time. If I am able to shew this, it will follow, that Mr. Oakeley, in coming forward to maintain all Roman doctrine, is (even if the Council of Trent be put out of the question in consequence of the date of its Decrees) maintaining that which is contrary to the Articles of the Church of England.

In the fourth Council of Lateran, held in 1215, under Pope Innocent the Third, and the Emperor Frederick the Second, the first Decree is entitled “De fide Catholicâ,” and, after speaking of the doctrine of the Trinity, proceeds thus, “Una vero est fidelium universalis ecclesia extra quam nullus omnino Salvatur. In quâ idem ipse sacerdos et sacrificium Jesus Christus : cujus corpus et sanguis in Sacramento altaris sub speciebus panis et vini veraciter continetur; *transubstantiatis*”—using the very term which our Articles condemn—“pane in corpus et vino in sanguinem, potestate divinâ, ut ad perficiendum mysterium unitatis accipiamus ipsi de suo quod accepit ipse de nostro.” (Labb. Concil. Gen. vol. 11, p. 143). Thus transubstantiation was acknowledged, and decreed as a Roman doctrine in a General Council, long before the Council of Trent was ever dreamed of.

Next I shall mention the Council of Constance, held in 1415 under Pope John the Twenty-third, and the Emperor Sigismund. That Council condemned the writings of Wickliffe and Huss. Extracts and also propositions drawn from the writings of these Reformers are given in its Decrees, and condemned *seriatim*. Of these extracts or positions I will adduce the three first which were exhibited against Wickliffe. “1, Substantia panis materialis, et similiter substantia vini materialis, manet in Sacramento altaris.—2, Accidentia panis non manet sine subjecto in eodem Sacramento.—3, Christus non est in eodem Sacramento identice et realiter in propriâ præsentia corporali.”—I will also add the fifth, “non est fundatum in Evangelio quod Christus Missam ordinaverit.” Upon the proof of these Articles, the Council decreed—“Hæc

sancta Synodus declarat et sententiat eundem Johannem Wickcleff fuisse notorium hereticum, pertinacem, ac in hæresi decessisse anathematizando ipsum pariter et suam memoriam condemnando, decernitque et ordinat, corpus et ossa ejus, (si ab aliis corporibus fidelibus decerni possint) exhumari et procul ab ecclesiæ sepulturâ jactari secundum canonicas et legitimas sanctiones." (Labb. Concil. Gen. vol. 13, pp. 46—49.) The same Council also condemned John Huss and Jerome of Prague to the stake, one of the accusations against the former being, that he had inveighed against the Articles which had been exhibited against Wickcliffe.

There was also another General Council held at Basle, in 1431, under Pope Eugenius the Fourth, and the Emperor Sigismund. To this Council the Bohemians (who were divided, it seems, into two classes, *viz.* those who had from the Pope an express dispensation to receive the Sacrament in both kinds, and those who stood on the same footing with other Roman Catholics in that respect) sent a petition praying—"unanimem omnibus et singulis sub utrâque specie Sacræ Eucharistiæ Communionem," and assigning as a reason that it would tend to remove jealousies and animosities from among them. That concession was, however, refused, and, in its 30th Session, the Council passed a Decree of the same tenor as that afterwards promulged by the Council of Trent. The words are,—"*Ut lucidius videatur pro declaratione Catholicæ veritatis, quid circa perceptionem sacra Eucharistiæ tenendum sit, et agendum pro utilitate et salute populi Christiani, post diligentem perscrutationem divinarum scripturarum, sacrorumque canonum et doctrinarum a sanctis patribus et doctoribus traditarum in hâc sanctâ Synodo longis temporibus habitam, consideratisque omnibus quæ pro declaratione hujus rei consideranda fuerunt, decernit et declarat eadem sancta Synodus, quòd fideles laici sive clerici communicantes, et non conicientes non astringuntur ex præcepto domini ad suscipiendum sub atrâque specie, panis salicet et vini, sacrum Euchristæ Sacramentum.*" After refusing the petition of the Bohemians, the

Decree adds,—“Laudabilis quoque consuetudo communicandi laicum populum sub unâ specie, ab ecclesiâ et sanctis patribus rationabiliter introducta, et hactenus dintissimè observata, et à doctoribus divinæ legis sacrarum Scripturarum atque canonum multam peritiam habentibus jam à longævo tempore commendata, *pro lege habenda est*, nec alicui licitum est eam reprobare, aut sine auctoritate ecclesiæ ipsam immutare.”—(Labb. Concil. Gen. vol. 13, p. 600, &c.) This Decree bears date the 20th of December, 1437. We have thus another tenet of the Church of Rome, and one against which our 30th Article is directed, authoritatively sanctioned more than a century before the date of the English Convocation, or the Tridentine Council.

I shall next adduce the Council of Florence, held in 1438, under the same Pope Eugenius the Fourth, and the Emperor Albertus the Second. After re-enacting and confirming the doctrine of Transubstantiation, with which I will not trouble the Court, the Decree continues,—“Si vere pœnitentes in Dei civitate decesserint antequam dignis pœnitentiæ fructibus commissis satisfecerint, et omissis, eorum animis pœnis purgatorii post mortem purgari; et ut a pœnis hujusmodi releventur prodesse eis fidelium vivorum suffragia, Missarum scilicet sacrificia, orationes et eleemosynas, ac alia pietatis officia, quæ a fidelibus pro aliis fidelibus fieri consueverunt secundum ecclesiæ instituta. Illorumque animas, qui post baptismum susceptum nullam omnino peccati maculam incurrerunt, illas etiam quæ post contractam peccati maculam in suis corporibus, vel eisdem exutæ corporibus (prout superius dictum est) sunt purgatæ, in cœlum mox recipi, et intueri clare ipsum Deum trinum et unum, sicuti est, pro meritorum tamen diversitate alium alio perfectius. Illorum autem animas qui in actuali mortali peccato, vel solo originali decedunt, mox in inferum descendere pœnis tamen disparibus puniendas.” The Court sees, then, that the Council of Florence sets out this doctrine of Purgatory as fully as the Council of Trent. And this is somewhat important, because this happens to be a doctrine

stated in one of the few Canons of the Council of Trent, passed after the Convocation in 1562 had been dissolved. And, although, as was remarked by the Queen's Advocate, the doctrine had been alluded to, and affirmed as a tenet of the Church of Rome in a former sitting of the Council of Trent, still the Canon which explicitly refers to it not having been passed until after the Convocation had ceased to sit, it is important to find it affirmed here so long before.

Another doctrine was also decreed in this Council against which one of our Articles is directed, namely, the Supremacy of the Pope. The Decree runs,—“*Item diffinimus sanctam Apostolicam sedem et Romanum Pontificem in universum orbem teneri primatum, et ipsum Pontificem Romanum successorem esse Beati Petri principis Apostolorum, et verum Christi vicarium, totiusque ecclesiæ caput et omnium Christianorum patrem et doctorem existere, et ipsi in Beato Petro pascendi, regendi vel gubernandi universalem ecclesiam à Domino nostro Jesu Christo plenam potestatem traditam esse, quemadmodum etiam in gestis œcumenicorum conciliorum, et in Sacris Canonibus continetur.*”—(Labb. Conc. Gen. vol. 14, p. 1164, &c.)

These passages which I have quoted from earlier Councils establish that, at least, in respect of Transubstantiation; the withholding the cup from the laity; Purgatory, and the Supremacy of the Pope, the doctrine of the Roman Church had been authoritatively declared long before the sitting of the Council of Trent.

As there is to be no argument on the other side, I am desirous to put the point which I am arguing beyond any possible doubt, but if the Court considers I am occupying too much time upon it, I trust it will have the kindness to stop me. The point I am so desirous of establishing is, as I have stated, that the historical events connected with the framing of the Articles support the proof arising from the contents of the Articles themselves, that they were intentionally and advisedly framed in opposition to the doctrine of the Church of Rome.

The Council of Trent separated in 1563, and the Bull confirming its acts bears date in that year. The act of Parliament enforcing Subscription to the Articles was passed in 1571. Therefore, in 1571, after the Council of Trent had completed its sitting, an opportunity was afforded for modifying the Articles, if they had stated too much, or in any manner gone beyond the intentions of their framers. But, although the Articles were, according to Heylin and others, in 1571, again laid before the Convocation, I am not aware of a single alteration made at that time, which, in any way, affects the present question. And, in reference to the history of these Articles, I would here remark, that Dr. Bennett, in his Essay upon them, gives an account of the Sermon preached before the Convocation of 1571, by Dr. Whitgift, who afterwards became Archbishop of Canterbury, and who took an important part in the events of the day. Quoting from an abstract of the proceedings, he says,—“The abstract tells us that Dr. Whitgift preached, his text being Acts, xv. 6, *in quâ* (to use the words of the abstract) *de institutione et auctoritate synodorum, de inimicis ecclesiæ puritantibus scilicet et papistis, de usu vestimentorum et ornamentorum, et post de multis in futurâ Synodo Reformandis, tractabat.*” These were the contents of his Sermon preached before the Synod; one of the heads being the enemies of the Church, that is to say, the Puritans and the Papists. The Court is also aware, that, before this Parliament of 1571 sat, the Bull of Pope Pius the Fifth had been published, excommunicating the Queen. And D'Ewes, in his account of the Journals of Parliament, states that prior to 1571 several attempts had been made to pass a Bill through Parliament, enforcing upon the Clergy subscription to the Articles, but that all of these had failed, in consequence of the Queen considering it to be quite sufficient that she herself should command the Clergy to subscribe, and that the Pope's Bull of Excommunication was the cause of her ultimately yielding.

This Bull of Excommunication appears to me to be some-

what important, and I will therefore state its contents as shortly as I can. It is given in the first volume of Cardwell's *Documentary Annals*, page 363, number 74. "Pius Episcopus, servus servorum Dei, ad perpetuam rei memoriam. Regnans in Excelsis, cui data est omnis in cœlo et in terris potestas, unam Sanctam, Catholicam, et Apostolicam ecclesiam, extra quam nulla est salus, uni soli in terris, videlicet Apostolorum Principi Petro, Petrique successori Romano Pontifici, in potestatis plenitudine tradidit gubernandum. Hunc unum super omnes gentes et omnia regna principem constituit, qui evellat, destruat, dissipet, disperdat, plantet, et ædificet, ut fidelem populum, mutuae caritatis nexu constrictum, in unitate Spiritus contineat, saluumque et incolumem suo exhibeat salvatori." Then, after stating his earnest endeavours to preserve unity, his Holiness proceeds,—“Sed impiorum numerus tantum potentia invaluit, ut nullus jam in orbe locus sit relictus, quem illi *pessimis doctrinis* corrumpere non tentariut; aditente inter cæteros flagitiorum serva Elizabetha, prætensâ Angliæ Reginâ, ejusque præcipuam auctoritatem atque jurisdictionem monstruose sibi usurpans, regnum ipsum jam tum ad fidem Catholicam et bonam frugem reductum, rursus in miserum exitium revocavit.”

The Pope next speaks of the events which had taken place in England:—“Usu namque veræ religionis, quam ab illius desertore Henrico VIII. olim eversam, claræ memoriæ Maria, Regina legitima, hujus sedis præsidio reparavit, potenti manu inhibito, secutisque et amplexis hæreticorum erroribus, regium consilium ex Anglicâ nobilitate confectum diremit, illudque obscuris hominibus hereticis complevit, Catholicæ fidei cultores oppressit, improbos concionatores atque impietatum administros reposuit; missæ sacrificium, preces, jejunia, ciborum delectum, cætibaturn, ritusque Catholicos abolevit; libros, manifestam hæresim continentes, toto regno reponi, impia mysteria et instituta ad Calvinî præscriptum a se suscepta et observata, etiam a subditis servari mandavit; episcopos, ecclesiarum rectores, et alios sacerdotes Catholicos suis ecclesiis et beneficiis ejicere,”—and so

forth: until at the end of the Bull he proceeds to excommunicate the Queen. Thus, the Court sees, that this instrument is in keeping with all the other quotations which I have adduced, and shows, that, in the estimation of all parties, the proceedings in England tended to the establishment of a new religion. The dissimilarity between the Roman Catholic doctrine and the Reformed faith was so obvious, and they were opposed to each other upon so many fundamental points, that all parties characterized them as two different religions.

I next wish to bring under the notice of the Court certain passages occurring in the authorized Homilies of the Church of England. As to the degree of authority to be attributed to these, I wish to use them simply in accordance with the statement in the thirty-fifth Article, which Mr. Oakeley, and every minister of the Church of England is required to subscribe, viz:—that “they contain a godly and wholesome doctrine and necessary for these times.” So that without going the length of saying, that, in reading them, we are to expect an accurate and logical statement of the doctrines of the Church of England, which is not declared by the Article; still they are to be regarded as approved discourses, founded upon that doctrine, and containing nothing which is opposed to, or in violation of it. They apply the doctrines contained in the Articles in a popular manner to the congregations to whom they are addressed, and, I apprehend, so far we have a right to use them as witnesses for the doctrines of the Church.

The Homilies, as the Court is aware, consist of two books, one published in the reign of King Edward VI., and the other under Queen Elizabeth, and upon reference to them, it will, I think, appear, as it did upon examining the Articles, that the later ones condemn the doctrines of the Church of Rome, more explicitly (if possible) than the earlier ones.

I shall commence with a passage in the third part of the fifth Homily: “On good works.” “What man, having any judgment or learning, joined with a true zeal unto God, doth not see and lament to have entered into Christ’s religion, such false

doctrine, superstition, idolatry, hypocrisy, and other enormities and abuses, so as by little and little, through the sour leaven thereof, the sweet bread of God's Holy Word hath been much hindered and laid apart?" "Sects, and feigned religions were neither the fortieth part so many among the Jews, nor more superstitiously and ungodly abused, than of late days they have been among us: which sects and religions had so many hypocritical and feigned works in their state of religion (as they arrogantly named it) that their lamps (as they said) ran always over, able to satisfy, not only for their own sins, but also for all other their benefactors, brothers and sisters of religion, as most ungodlily and craftily they had persuaded the multitude of ignorant people,"—referring to, and condemning the Roman doctrine concerning works of supererogation. Further on in the same Homily the name of Antichrist is applied to the Pope as the head of the Roman Church.

I shall next refer to the tenth Homily, "On obedience." In the third part occur the following passages:—"And here let us take heed that we understand not these, or such other like places (which so straitly command obedience to Superiors and so straitly punished rebellion and disobedience to the same) to be meant in any condition to the pretended or coloured power of the Bishop of Rome." And further on—"But the Bishop of Rome teacheth that they that are under him are free from all burthens and charges of the Commonwealth, and obedience towards their prince, most clearly against Christ's doctrine and St. Peter's. He ought, therefore, rather to be called Antichrist, and the successor of the Scribes and Pharisees."

I now come to the second part of the Homily on the Right use of the Church—Homily 13; and which was written in the reign of Queen Elizabeth, probably by Archbishop Parker:—the former Homilies, to which I have referred, having been written in the reign of Edward the Sixth, by Archbishop Cranmer, or some of those associated with him. Near the commencement of this Homily we read—"Which sentence,

although it be chiefly referred to the temple of the mind of the godly, yet, seeing that the similitude and pith of the argument is taken from the material temple, it enforceth, that no ungodliness, especially of images or idols, may be suffered in the Temple of God, which is the place of worshipping God; and, therefore, can no more be suffered to stand there, than light can agree with darkness, or Christ with Belial; for that the true worshipping of God, and the worshipping of images are most contrary. And the setting of them up in the place of worshipping, may give great occasion to the worshipping them."

There are a variety of passages of the same kind running through the lengthened Homilies against Idolatry. And it is quite impossible to read them, without perceiving, that they contain a direct charge of Idolatry against the Church of Rome. To take one towards the end of the third part of the fourteenth Homily which is against Idolatry—"Now concerning excessive decking of images and idols, with painting, gilding, adorning with precious vestures, pearl and stone, what is it else, but for the further provocation and enticement to spiritual fornication, to deck spiritual harlots most costly and wantonly, which the Idolatrous Church understandeth well enough." There are several other passages of a similar description; but these may suffice to shew, that no person can attentively read the Homilies, without coming to the conclusion, that they contain a plain and direct charge of Idolatry against the Church of Rome.

The Homily concerning Prayer speaks of the doctrine of Invocation of Saints.—"Invocation is a thing proper unto God, which, if we attribute unto the Saints, it soundeth to their reproach, neither can they well bear it at our hands."

The third part of the same Homily mentions Purgatory thus,—"Where is then the third place which they call Purgatory? or where shall our prayers help and profit the dead? St. Augustine doth only acknowledge two places after this life, Heaven and Hell. As for the third place, he doth plainly

deny that there is any such to be found in all Scripture.”.....
 “Let these and such other places be sufficient to take away the gross error of Purgatory out of our heads; neither let us dream any more, that the souls of the dead are anything at all holpen by our prayers.”

The twenty-first Homily on Common Prayer also speaks of the Sacraments; “Now with like, or rather more brevity, you shall hear how many Sacraments there be, that were instituted by our Saviour Christ, and are to be continued, and received of every Christian in due time and order, and for such purpose as our Saviour Christ willed them to be received. And as for the number of them, if they should be considered according to the exact signification of a Sacrament, namely, for the visible signs, expressly commanded in the New Testament, whereunto is annexed the promise of free forgiveness of our sins, and of our holiness and joining in Christ, there be but two; namely, Baptism, and the Supper of the Lord.”—Then afterwards,—“Therefore, neither it, (orders) nor any other Sacrament else, be such Sacraments as Baptism and the Communion are. But in a general acceptation the name of a Sacrament may be attributed to any thing, whereby an holy thing is signified. In which understanding of the word, the ancient writers have given this name, not only to the other five, commonly and of late years taken and used for supplying the number of the Seven Sacraments; but also to divers and sundry other ceremonies, as to oil, washing of feet, and such like.” The Court has already had laid before it, the doctrine of the Church of Rome upon the number of the Sacraments; and this Homily, in opposition to that doctrine, places five of the seven in respect to this upon the same footing with any other religious ceremony.

I shall just quote one more passage from the Homily, for Whit Sunday, and the Court must be well aware that passages of this kind might be multiplied to a very great extent. The passage I refer to, occurs near the beginning of the second part of that Homily.—“Now if you will compare this with the Church of Rome, not as it was at the beginning, but as it is at present,

and hath been for the space of 900 years and odd; you shall well perceive the state thereof to be so far wide from the nature of the true Church, that nothing can be more. For neither are they built upon the foundation of the Apostles and Prophets, retaining the sound and pure doctrine of Christ Jesus: neither yet do they order the Sacraments, or else the ecclesiastical keys, in such sort as he did first institute and ordain them.....To be short, look what our Saviour Christ pronounced of the Scribes and Pharisees in the Gospel; the same may be boldly and with safe conscience pronounced of the Bishops of Rome; namely, that they have forsaken, and daily do forsake, the commandments of God, to erect and set up their own constitutions." Nothing can be stronger than this to prove, that there was not, and could not be, any intention to admit into the Church of England any specific doctrine of the Church of Rome, "Which thing being true, as all they which have any light of God's word must needs confess, we may well conclude, according to the rule of Augustine, that the Bishops of Rome and their adherents are not the true Church of Christ, much less then to be taken as chief heads and rulers of the same." The next paragraph commences with these words—"Now to leave their doctrine and to come to other points"—thereby shewing, that the part which I have read related to the doctrine of the Church of Rome, and spoke of the matters referred to in it as the doctrines of that Church.

Her Majesty's Advocate has already referred the Court to the book, which, I apprehend, in point of public authority, in the Church of England, stands next to the Homilies.—I mean the *Apology* of Bishop Jewel. It is quoted in the 30th Canon as the "Apology of the Church of England;" and Bishop Randolph, in the preface to his *Enchiridion*, says—"Jewel's *Apology* is said to have been published with the consent of the Bishops, and was always understood to speak the sense of the whole Church in whose name it is written." Nothing can be a stronger confirmation of the authority which attaches to this work, and indeed all the writers of the day refer to it as an

acknowledged public document, and one, the overthrow of which, would go far to shake much of the acknowledged doctrine of the Church of England.

I shall, for convenience sake, quote from the translation of the *Apology*, which was made by Lady Ann Bacon, the Lord Keeper's wife. In the first chapter of that translation; and the 8th section we read—"If the Popes themselves would, or indeed, if they could consider with themselves the beginning and progress of our religion; how theirs without any resistance, without any human force hath fallen; and in the interim, ours hath increased, and by degrees been propagated into all countries," and so forth. And shortly afterwards, at the end of the same paragraph—"for so many free cities, so many princes cannot be supposed mad, as at this day have fallen from the see of Rome, and chosen rather to join themselves to the Gospel." These passages speak of the faith of the English and Romish Churches as two religions, and describe the Reformed Religion as the Gospel.

Then in chapter 2nd, section 6, at the end,—“But the Bishop of Rome, because he desires to be so called” (that is to be called Pontiff), “and usurps a power which belongs not to him, besides that he acts directly against the ancient Councils and the Fathers, if he does believe St. Gregory, one of his own predecessors, he has taken upon him an arrogant, prophane, sacrilegious, antichristian title, and is therefore the King of Pride, Lucifer, one that sets himself above his brethren, who has denied the faith, and is thereby become the forerunner of Antichrist.” To be sure, no words can be stronger to shew that the religion, which Bishop Jewell was then writing his *Apology* to support, was considered by him and others, to be entirely and irreconcilably opposed to the Romish tenets.

Subsequently, in the fourteenth section of the same chapter, he speaks of the Eucharist:—“We say that the Eucharist is the Sacrament or visible symbol of the Body and Blood of Christ, in which the death and resurrection of Christ, and what he did in his human body, is in a manner represented to

our eyes, that we may give him thanks for his death, and our deliverance by it; and that by frequenting the Sacrament, we may often renew the remembrance of it, and that by the Body and Blood of Christ, we may be nourished into the hope of the resurrection, and of eternal life; and that we may be assured that the Body and Blood of Christ hath the same effect in the feeding of our souls, which the bread and wine have in the repairing the decays of our bodies Therefore, if there was any one heretofore, before the private Mass was introduced, who would be only a spectator, and yet would abstain from the Holy Communion, the Bishops of Rome in the primitive times, and the Antient Fathers would have excommunicated him as a wicked man and a Pagan." Further on he continues:—"And we say, that both the parts of the Sacrament ought to be given to all that come to the Holy Communion, for so Christ commanded, and the apostles instituted throughout the world, and all the Ancient Fathers and Catholic Bishops so practised." "And therefore our adversaries who exploding and rejecting the Communion, defend the private Mass, and a multitude of Sacraments, without the authority of the Word of God, without any ancient council, without any Catholic father, without any example of the primitive Church, and without reason, and this against the express command of Christ, and also against all antiquity, in so doing, act wickedly and sacrilegiously."

In the fifteenth Section he speaks of Transubstantiation:—"We say that the bread and wine are the holy and heavenly mysteries of the Body and Blood of Christ, and that in them, Christ himself, the true bread of eternal life is so exhibited to us as present, that we do by faith truly take his Body and Blood, and yet at the same time we speak not this so as if we thought the nature of the bread and wine were totally changed and abolished, as many in the last ages have dreamt, and as yet, could never agree among themselves about this dream. For neither did Christ ever design that the wheaten bread should change its nature, and assume a new kind of divinity, but

rather that it might change us." Here we find the doctrine of the Church of England contrasted with that of Rome.

In the seventeenth Section he treats of the Mass, and also of Purgatory—in the nineteenth of Prayer in our own Tongue—in the twentieth of Mediators and Intercessors—in the twenty-first of Original Sin—in the twenty-second of Sacrifice—and lastly, in the twenty-third of Good Works. In short, he proceeds *seriatim* through all the points of doctrine, in which the Church of England is opposed to that of Rome, stating the differences between them, and maintaining, upon the authority of the Scriptures, the truth of that held by the Church of England. There are also in the remaining portion of the work a variety of passages to the same effect, but I do not quote them, as they do not appear to carry the matter further, and in point of fact, it appears almost impossible to do so. This celebrated work, then, which has received so high and so universal a sanction, affords another evidence, that, in the eyes of the early Reformers of our Church, who were also the framers of our Articles, the two religions were altogether irreconcilable.

I will now pass on to lay before the Court some of the Canons framed in 1640, and which received the sanction of the Convocation, and afterwards of the Crown. I am aware that these Canons are not now binding in point of law, but they are still very important, as giving the decided testimony of the Convocation at the time they bear date. There are indeed to be found a variety of other Canons passed in the Convocations held from 1571 to 1597, enforcing generally subscription to the Articles, but these I pass over, as they merely served to call the attention of the clergy to the provisions of the Act of the thirteenth Elizabeth.

The Canons of 1640 are, however, important for the reasons stated above, and also because Archbishop Laud presided in the Convocation which passed them. They besides bear very strongly upon the point which I am bringing before the Court. I quote them from the first vol. of Dr. Cardwell's *Synodalia*,

p. 393. The Canon to which I first refer is entitled, "For the suppressing the growth of Popery."—"All and every ecclesiastical persons, of what rank or condition soever, Archbishops and Bishops, Deans, Archdeacons, all having exempt or peculiar jurisdiction, with their several chancellors, commissaries, and officials, all persons entrusted with cure of souls, shall use respectively all possible care and diligence by conferring privately with the parties, and by censures of the Church in inferior and higher Courts, as also by complaints unto the secular power, to reduce all such to the Church of England who are misled into Popish superstition.

"And first, these private conferences shall be performed in each several Diocese, either by the Bishop in person, if his occasion will permit it, or by some one or more learned ministers at his special appointment; and the said Bishop shall also design the time and place of the said several Conferences, and all such persons as shall be present thereat; which if recusants refuse to observe, they shall be taken for obstinate, and so certified to the Bishop."—And afterwards—"If the said Conferences prevail not, the Church must and shall come to her censure."

I pass on to the sixth Canon, entitled "An Oath enjoined for the preventing of all innovations in doctrine and government. This present Synod (being desirous to declare their sincerity and constancy in the profession of the doctrine and discipline already established in the Church of England, and to secure all men against any suspicion of revolt to Popery, or any other superstition) decrees, that all Archbishops and Bishops, and all other Priests and Deacons, in places exempt or not exempt, shall before the second day of November, next ensuing, take this Oath following, against all innovation of doctrine or discipline. The Oath is, *I, A. B.*, do swear that I do approve the doctrine, and discipline or government established in the Church of England, as containing all things necessary to salvation; and that I will not endeavour by myself or any other, directly or indirectly, to bring in any

Popish doctrine, contrary to that which is so established. Nor will I ever give my consent to alter the government of this Church by Archbishops, Bishops, &c., as it stands now established, and as by right it ought to stand, nor yet ever to subject it to the usurpations and superstitions of the see of Rome. And all these things I do plainly and sincerely acknowledge and swear, according to the plain and common sense and understanding of the same words, without any equivocation or mental evasion, or secret reservation whatsoever. And this I do heartily, willingly, and truly upon the faith of a Christian, so help me God in Jesus Christ."

The remainder of the Canon carries out the general purpose of it in a variety of ways, but is unnecessary to quote.

These Canons, passed in a Convocation, over which Archbishop Laud presided, distinctly declared the doctrine of the Church of Rome to be superstitious, and laid upon Clergymen of the Church of England the necessity of opposing it, and trying to win persons from it. For this end, they propose conferences, and announce that if the recusants will not attend, the Church must resort to her censures.

THE COURT.—What became of these Canons?

Dr. Bayford.—I apprehend it can scarcely be said that they were carried into effect.

THE COURT.—But if they were not acted upon, they were little more than the mere private opinions of individuals.

Dr. Bayford.—They express the opinion of the Convocation, and were subsequently confirmed by the King, but, being of no force in law at the present times, for the purposes of this argument, I am content to put them on the very lowest ground, viz., that whenever a great number of persons unite, their expression of opinion is of greater weight than when an individual declares his own private sentiments. Thus these Canons are entitled to greater respect than the writings of Archbishop Laud would be, because both Houses of Convocation supported him.

THE COURT.—I only wanted to see how far you put it.

You have correctly stated that they are now of no force in law.

Dr. Bayford.—I will now draw the Court's attention to some of the public Services of the Church, instituted at different periods. In the works of Archbishop Grindal, as published by the Parker Society, we have a Service, which was originally drawn up for his Diocese in the time of the Plague, and in the course of that Service, at page 88, we have, at the beginning of a prayer, containing also a confession of sins, these sentences,—"Thou hast called us to the knowledge of thy Gospel. Thou hast released us from the hard servitude of Satan. Thou hast delivered us from all horrible and execrable idolatry, wherein we were utterly drowned, and hast brought us into the most clear and comfortable light of Thy blessed Word, by the which we are taught how to serve and honour Thee, and how to live orderly with our neighbours in truth and verity."

So that in this prayer, offered publicly in the Church of England, not in one Diocese only, but subsequently throughout the Province of Canterbury, the Roman tenets were characterized as execrable idolatry.

The next Service to which I refer, is one in use at the present time, viz., the Service for the 5th of November, in which occurs a prayer to the following effect,—“Accept also, most gracious God, of our unfeigned thanks for filling our hearts again with joy and gladness, after the time that Thou hast afflicted us, and putting a new song into our mouths by bringing his Majesty King William, upon this day, for the deliverance of our Church and nation from Popish tyranny and arbitrary power.” How can a clergyman of the Church of England, who maintains all Roman doctrine, and adheres to the decisions of the Council of Trent, offer up this prayer? I confess that it seems to me entirely and altogether impossible.

The next Service which I will advert to, is one, not binding indeed in point of law, but which is at the present time used, whenever necessary. This Service stands, in point of law, precisely on the same footing with that used at the consecration of

churches or churchyards. We know that these latter Services are not of legally binding authority, yet that they are constantly used, and that the greater part of them, if not the whole, is on all occasions the same. The same may be said of the Service which was drawn up by the Convocation of 1713, for the receiving of converts from the Church of Rome. Queen Anne expressly committed the consideration of that Service to the Convocation, although, for some reason or other, she did not afterwards confirm it. It is, however, constantly used, when converts from the Church of Rome join the Church of England; and if Mr. Oakeley, as a Minister of the Church of England, had to receive such a convert, he would, almost to a certainty, be directed by his Bishop to perform it. I take the Service itself from the second volume of the *Synodalia*, page 796. It begins thus:—"Dearly beloved: We are here met together for the reconciling of a penitent (lately of the Church of Rome, or lately of the Separation)"—for the Service was intended for the receiving of Dissenters as well as Roman Catholics—"to the Established Church of England, as to a true and sound part of Christ's Holy Catholic Church." Then, in a subsequent part, when the person to be received is a convert from the Church of Rome, the 115th Psalm is directed to be used, the whole effect of which Psalm is a rejoicing in deliverance from idolatry. And the selection of this Psalm corresponds with the passages which I have read from the Homilies, shewing that the Church of England considers the direct bearing of Transubstantiation, Images, &c., as employed in the Church of Rome, to be idolatry. But to proceed with the Service.—The person to be received is subsequently addressed by the Bishop or Priest in these words:—"Art thou thoroughly persuaded, that those books of the Old and New Testament, which are received as Canonical Scriptures by this Church, contain sufficiently all doctrine requisite and necessary to eternal salvation through faith in Jesus Christ?" Now a person holding the doctrine of the Church of Rome could not fairly and honestly put this question, because he

must know, as the Court has been shown, that, according to the doctrine of that Church, many other books are to be received and put on an equal footing with those stamped as Canonical by the Church of England. To this question the convert is required to answer, "I am so persuaded." The penitent from the Church of Rome is subsequently to be asked, "Dost thou renounce all the errors and superstitions of the present Romish Church, so far as they are come to thy knowledge?" The answer is, "I do from my heart renounce them all." It would be impossible for Mr. Oakeley to sanction a Service of this kind with his presence, much less to perform it.

THE COURT.—He would not hold them to be errors and superstitions.

Dr. Bayford.—But then he would not abide by the fair meaning of the words.

THE COURT.—No.

Dr. Bayford.—Of course it is easy to perform this or any Service, if mental reservation be allowed, but, I apprehend, that it would be impossible, even by employing mental reservation, to get over the next question. For it is directed,—“If the penitent from the Church of Rome be in holy orders, let these further questions be asked.—‘Dost thou in particular renounce the twelve last Articles added in the Confession, commonly called the Creed of Pope Pius the Fourth, after having read them, and duly considered them?’” Now, this Creed of Pope Pius the Fourth is one which every Minister in the Church of Rome, at the time of his ordination, is required openly to avow. It forms part of the Ordination Service, and he is required to utter it. The Council of Trent directed that such a Creed should be drawn up, and this was subsequently done by Pope Pius the Fourth; and this Creed is brought prominently forward, as I have stated, at the ordination of every Minister in the Church of Rome. This being so, I will now call the Court’s attention to the particular doctrines which a Roman Catholic Priest would be required publicly to renounce upon his joining the Church of England. I presume that the object

is to avoid any equivocation. He has an authoritative Creed called to his attention, and is required publicly to renounce it.

The last Twelve Articles of the Creed of Pope Pius Fourth, are in the words, "*Profiteor quoque septem esse vera et proprie Sacramenta novæ legis a Jesu Christo, Domino nostro instituta*" —The Sacraments are then enumerated. The Romish Priest would, therefore, have to renounce this. "*Receptos quoque et approbatos Ecclesiæ Catholicæ ritus, in supra dictorum omnium Sacramentorum solemnî administratione recipio et admitto.*"—The Roman Catholic Priest must, therefore, renounce all the rites of the Romish Church. "*Omnia et singula, quæ de peccato originali, et de justificatione in sacrosanctâ Tridentinâ synodo definita et declarata fuerunt, amplector, et recipio.*" He must, therefore, renounce all the dogmas of the Council of Trent treating upon these points; of which the Church of England also speaks in her Articles; and, in respect to some of which, it has been pointed out to the Court, that the doctrines of the Church of England are contrary to the Decrees of the Council of Trent. The Creed goes on, "*Profiteor pariter in Missâ offerri Deo verum proprium et propitiatorium sacrificium pro vivis, et defunctis: atque in sanctissimo Eucharistiæ Sacramento esse vere realiter et substantialiter corpus et sanguinem, una cum anima et divinitate Domini nostri Jesu Christi, fierique conversionem totius substantiæ panis in corpus et totius substantiæ vini in sanguinem; quam conversionem Catholica Ecclesia transubstantiationem appellat.*"—He must then renounce these doctrines concerning Mass and Transubstantiation. "*Fateor etiam sub altera tantum specie, totum atque integrum Christum, verumque Sacramentum sumi.*"—Thus he would have to renounce the very words used in the Decree of the Council of Trent. "*Constanter teneo Purgatorium esse, animasque ibi detentas fidelium suffragiis juvari.*"—He must, therefore, renounce the doctrine of Purgatory. "*Similiter et sanctos unâ cum Christo regnantes, venerandos atque invocandos esse, eosque orationes Deo pro nobis offerre, atque eorum reliquias esse*

venerandas." Thus he must renounce the veneration of relics, and invocation of saints. "Firmissimè assero, imagines Christi, ac Deiparæ semper Virginis, nec non aliorum sanctorum, habendas et retinendas esse, atque eis debitum honorem ac venerationem impertiendam."—He must, therefore, renounce the doctrine and practice of the Church of Rome respecting images. "Indulgentiarum etiam potestatem à Christo in Ecclesia relictam fuisse; illarumque usum Christiano populo maximè salutare esse, affirmo."—In this he would renounce the Roman doctrine of Indulgences. "Sanctam Catholicam, et Apostolicam Romanam Ecclesiam, omnium Ecclesiarum Matrem et magistram agnosco, Romanoque Pontifici, beati Petri, Apostolorum Principis, Successori, ac Jesu Christi vicario veram obedientiam spondeo ac juro."—He must thus renounce the supremacy of the Pope, and the authority of the Roman Church. And lastly, "Cætera item omnia à sacris Canonibus, et œcumenicis Conciliis, ac præcipue à sacrosanctâ Tridentinâ Synodo tradita, definita, et declarata, indubitanter recipio, atque profiteor, simulque contraria, atque hæreses ab Ecclesiâ damnatas, rejectas, et anathematizatas, ego pariter damno, rejicio anathematizo." Thus he would have to renounce the whole of the Decrees of the Council of Trent—the very Decrees which Mr. Oakeley particularly refers to and upholds, and to uphold the very doctrine which the Council of Trent denies. And to the whole of these he must answer—"I do, upon mature deliberation reject them all, as grounded upon no warrant of Scripture, but rather repugnant to the Word of God." And this form is used—

THE COURT.—How does that appear? Were you ever present at such a ceremony?

Dr. Bayford.—I certainly was never present myself. I can only rely on the testimony of others.

The Queen's Advocate.—It is so in England; in Ireland the receiving the Communion would be sufficient.

THE COURT.—How do you get the fact? I am anxious to know the form used on the admission of a convert from Popery.

Dr. Bayford.—I have not been present myself, as I have already stated, but I have heard from others who have, that a form, at all events, closely resembling this is employed. And the Court sees that it could not often have been used, because there have been, since this Service was framed, but few priests who have joined the Church of England from the Church of Rome. However, as far as the present question is concerned, this form was settled in Convocation for the purpose, and it is quite certain, that a person, holding the tenets of the Church of Rome, could not by possibility sanction, much less take a part in, and assist at, such a Service.

Mr. Bowdler.—The Dean of Chichester, who is present, says he has been present when a convert has been admitted at Chichester.

THE COURT.—It is not very important.

The Dean of Chichester.—I have been present when that Service has been used by the Bishop of Chichester.

Dr. Bayford.—I now come to the Service for the Ordering of Priests, and, in respect to this, there can be no doubt, that it is necessary to use it when persons are ordained. When *Mr. Oakeley* was ordained Priest, the Bishop addressed him, "Are you persuaded that the Holy Scriptures contain sufficiently all doctrine required of necessity for eternal salvation through faith in Jesus Christ? And are you determined out of the said Scriptures to instruct the people committed to your charge, and to teach nothing, as required of necessity to eternal salvation, but that which you shall be persuaded may be concluded and proved by the Scriptures?" To this *Mr. Oakeley* answered, "I am so persuaded and have so determined by God's grace." The Bishop again addressed him,—“Will you then give your faithful diligence always so to minister the Doctrine and Sacraments, and the discipline of Christ, as the Lord hath commanded, and as this Church and realm hath received the same, according to the commandments of God; so that you may teach the people committed to your cure and charge with all diligence to keep and observe the same?" *Mr. Oakeley* to that answered, "I will do so by the help of

the Lord." Again, Mr. Oakeley was asked,—“Will you be ready with all faithful diligence, to banish and drive away all erroneous and strange doctrines contrary to God's Word, &c.” And to this also he replied, “I will, the Lord being my helper.” Mr. Oakeley, however, in the Pamphlet which is before the Court, now openly declares that he is unable to fulfil this solemn engagement; at least, that he cannot fulfil it, so far as the erroneous doctrine of the Church of Rome is concerned. He says, indeed, that no Roman doctrine finds a place in his teaching, but by his ordination vow, he is bound, not merely to abstain from all false doctrine, but also to banish and drive it away. That he admits he cannot do—it is out of his power—he must do something short of it. Taking, therefore, what has been laid before the Court, as to the opposition between the doctrine of the Church of England and that of the Church of Rome, it appears to me, that, according to Mr. Oakeley's own confession, he cannot perform his duty.

I shall now bring under the notice of the Court a work, which has lately attained much celebrity, from the use which has been made of it. It was written by a person belonging to the Roman Catholic Church, and the object of it was to show such an agreement, or rather want of disagreement, between the Church of England and the Church of Rome, that, to some extent at least, it would be possible for a Roman Catholic to assent to our Articles. The work is entitled “*Deus Natura Gratia*,” and was written by a person called Davenport, under the name of Franciscus à Sancta Clara. This Davenport, it seems, first studied at Oxford, but subsequently took Orders in the Church of Rome, and was held in high estimation for his learning. The plan of his book is, first to elucidate several problems upon doctrine, and afterwards to consider the Articles of the Church of England *seriatim*, and the object he has in view is expressed in the heading to this part of his work, which is:—“*Articuli Confessionis Angliæ Paraphrastice exponuntur et in quantum cum veritate compossibiles reddi possunt perlustrantur.*”

The first few Articles he passes over, merely stating that they are Catholic, and about these there never was any dispute between the two Churches. Of course, in a work written with the object which this contemplates, we must expect to find many things smoothed down, but, even here, we shall find that it is confessedly impossible to reconcile all the Articles with the Roman doctrine—that appears to be a superhuman task.

To take the sixth Article on the Scripture, he says:—"Hæc eorum opinio, licet singularis valde et certe hæresi proxima est, præsertim post Tridentinum ubi illas in Canonem reponi declarat, secundum quod ante fecerat Florentinum cum consensu utriusque Ecclesiæ." So that the nearest approach he can make to this Article, is, that it is an extraordinary position, and borders upon heresy. And this is the opinion of a person spoken of by the Roman Catholics of his day as possessing great learning and talents, and writing with the avowed object of bringing the Articles as near the Roman doctrine as possible.

Upon the fourteenth Article, which treats of works of Supererogation, he is very short, but refers to the thirty-sixth Problem in the earlier part of the volume, and certainly the Court will be surprised to hear how he disposes of this question, and must at once perceive that this writer is disposed to get rid of every possible difficulty which lies in his way. "Inter doctiores Protestantes et nos, hic nulla prorsus altercatio." Thus he starts with the extraordinary announcement of there being little or no difference between Roman Catholics and the better instructed Protestants upon that point. Why, Sir, every Protestant writer controverts that Roman doctrine; I know of none who allows it. To prove his assertion he first refers to Hooker's *Ecclesiastical Polity*, and two other writers. Now Hooker merely says, "If when a man may live in a state of matrimony, seeking that good thereby which nature principally desireth, he make rather choice of a contrary life in regard of St. Paul's judgment: that which he doth is manifestly *grounded* upon the Word of God, yet not *commanded* in His Words, because

without breach of the Commandment he might do otherwise." And next he paraphrases the words at the latter part of the Article into "plus præstare Deo quam ex ullo titulo debemus," candidly admitting that the reconciliation would be very difficult without such a paraphrase; and lastly, having so done, declares that the Roman Catholics condemn the works of which he has thus made the Article speak as well as the Protestants.

Speaking of the nineteenth Article, respecting the Church, he fairly admits that it is very difficult to dispose of it, and, for my part, I confess I think so too: for the Article ends thus:—"The Church of Rome hath erred not only in their living and manner of ceremonies, but also in matters of faith." Upon this he remarks, "Posterior glossandus"—it cannot be admitted without a gloss—"Ubi etiam dicit Ecclesiam Romanam errasse in rebus fidei; advertendum est ibi condistingui Ecclesiam Romanam à cæteris particularibus Ecclesiis, quia pariformiter de Hierosolimitana, Alexandrina, in quo sensu si dixeris errasse de facto, non est contra fidem licet contra veritatem." Therefore his gloss is, if you consider the Church of Rome to be merely a particular and individual Church, and do not mean by it the Roman See, you may explain it, and then it will not be heresy. Thus the Court sees to what a pinch a Roman Catholic is driven in order to get over this Article.

In the same way he escapes from what is said of the doctrine of Purgatory in the twenty-second Article. As to that Article he asserts that it is not levelled against the doctrine of the Romanists, as they hold it, but against a doctrine which the Protestants consider the Roman Catholic to hold; then he quotes certain Protestant writers, who mention the doctrine of Purgatory, and says of them, that Catholics do not hold the views they attribute to them, and thus he disposes of the Article, as though the English Divines did not understand what was the Roman doctrine of Purgatory. I have contented myself with a mere sketch of the arguments used by this writer, in reference to the Articles to which I have referred, and I shall dismiss his work after calling the Court's attention

to his explanation of one other Article, as my sole object is to show the hopelessness of his attempt. The one which strikes me is the thirty-first,—“De unica Christi oblatione in cruce perfecta. Paraphrasis. Totus hic Articulus durissimus videtur, rectius tamen introspeciendo, non adeo veritati dissidentem judicem.” So that confessedly this Article troubles him. To get over it he again resorts to the vulgar notion of the matter. Thus, speaking of the latter part of the Article, which condemns the sacrifice of the Mass, he says,—“In verbis posterioribus, si sobrie intelligantur nihil agitur contra sacrificia Missæ, sed contra vulgarem opinionem, &c.”

The Court has thus had brought under its notice the work of a learned man, a subtle disputant, who was well versed in the doctrines of the Church of Rome, occupying a high position, and attempting that task which Mr. Oakeley fancies he has accomplished; and yet this individual is unable to reconcile the doctrine of the Articles (in some respects *confessedly*) with the doctrines of the Church of Rome.

THE COURT.—Do the Roman Catholics adopt his attempt at reconciliation?

Dr. Bayford.—No; I am putting it simply as the attempt of an individual.

THE COURT.—Have there ever been any attempts to bring the two Churches nearer?

Dr. Bayford.—I will show that presently, and believe I shall be able to place before the Court the most serious, and the most nearly successful attempt which has ever been made to unite the two Churches. But I wish, before doing so, to quote a passage from the fifth volume of Dr. Waterland's works. Dr. Waterland was writing against Dr. Samuel Clarke, who, as the Court will remember, maintained the Arian doctrine, and the object of Dr. Waterland's work was to prove that the holding of Arian doctrine was contrary to the meaning of subscription to the Articles. In page 150 he says,—“To make the case plainer, I shall illustrate it by a resembling instance. Franciscus à Sancta Clara, a known Papist, (who published his book

A. D. 1634) contrived to make our Thirty-nine Articles speak his own sentiments, reconciling them with great dexterity, and most amazing subtilty to the Council of Trent. Now, upon the question whether, upon his thus professing his faith in Protestant terms, Popishly interpreted, he could justly claim every privilege of a Church of England man, and whether we were bound to receive him as a fellow Protestant, a very little share of common sense, I presume, will be sufficient to determine that in the negative." This is the sensible view of the matter. It is obvious that, in the passages which I have read, an attempt is made to twist the words of the Articles into a sense which they were never intended to bear by their authors, and that there is a constant endeavour to escape from the plain meaning of the words into some abstruse and perverted interpretation of them.

I now come to the attempted reconciliation between the Church of England and a Church in communion with Rome, to which I before adverted. Dupin, it seems, held a correspondence with Archbishop Wake for the reconciliation of the French Church with the Church of England. The letters which passed on that occasion, are given by Dr. Maclaine in his translation of "*Mosheim's Ecclesiastical History*," and the whole transaction occupies the fourth Appendix. In order to forward the reconciliation, Maclaine states that Dupin wrote a work, entitled "*Commonitorium*," which, I believe, has never been printed, and the only account of which is to be found in this fourth Appendix. This work, we are told, after having been read, and approved in the Sorbonne, was sent over to Archbishop Wake, as a sort of proposed basis for the union between the Churches. And, accordingly, in the "*Commonitorium*," we find Dupin stating, what, in his opinion, it would be necessary to alter before the two Churches could be united.

Maclaine, at page 28, gives this account of it,—“After some reflections in a tedious Preface on the Reformation and the present state of the Church of England, Dupin reduces the con-

troversy between the two Churches to three heads, viz., Articles of faith,—rules and ceremonies of ecclesiastical discipline,—and moral doctrine, or rules of practice; and these he treats by entering into an examination of the Thirty-nine Articles of the Church of England. The first five of these Articles, he approves. With regard to the sixth, which affirms that the Scripture contains all things necessary to salvation, he expresses himself thus,—“This we will readily grant, provided that you do not entirely exclude tradition, which doth not exhibit new Articles of Faith, but confirms and illustrates those which are contained in the Sacred Writings, and places about them new guards to defend them against gainsayers.” Then Dupin says,—“The Apocryphal books will not occasion much difficulty.” He is, indeed, of opinion, that they ought to be deemed Canonical, as those books concerning which there were doubts for some time; yet since they are not in the first, or Jewish Canon, he will allow them to be called Deutero-Canonical. He next consents to the tenth, eleventh, twelfth, and thirteenth Articles with certain explanations. Of the fourteenth, concerning works of supererogation, he says,—“These mean only works conducive to salvation, which are not matter of strict precept, but of counsel only; that the word being new, may be rejected, provided it be owned that the faithful do some such works. He proposes, therefore, by way of concession, to reject the word, but retain the doctrine. Upon the nineteenth Article, he says,—“That though all particular Churches, even that of Rome, may err, it is needless to say this in a confession of faith.” So that I presume, he would have this erased. As to the twentieth, he consents to the refusal contained in it of power to the Church to ordain anything contrary to the Word of God, but he says,—“It must be taken for granted that the Church will never do this in matters which overturn essential points of faith, or to use his own words, ‘quæ fidei substantiam evertant.’” Which, as it appears to me, is to unsay what he had before said, and entirely to do away with the force and obvious meaning of the Article. With the twenty-first Article he

is apparently at open issue; for he remarks, "that General Councils received by the universal Church cannot err." In respect to the important points of controversy contained in the twenty-second Article, Maclaine says,—“The Doctor endeavours to mince matters as nicely as he can, to see if he can make the cable pass through the eye of the needle; and, for this purpose, observes, that souls must be purged, that is purified from all defilement of sin, before they are admitted to celestial bliss; that the Church of Rome doth not affirm this to be done by fire; that indulgences are only relaxations or remissions of temporal penalties in this life; that the Roman Catholics do not worship the cross, nor relics, nor images, nor even saints before their images, but only pay them an external respect, which is not of a religious nature; and that even this external demonstration of respect is a matter of indifference, which may be laid aside or retained without harm.” Thus he cannot give up Purgatory, and the other matters which the twenty-second Article condemns; also in the twenty-fifth he insists that the five Romish Sacraments be acknowledged as such, whether instituted immediately by Christ or not. Speaking of the twenty-eighth, he is willing to omit the word Transubstantiation, provided an expression equivalent thereto be introduced, and he proposes to insert in the Article, “That the bread and wine are really changed into the Body and Blood of Christ, which last are truly and really received by all, though none but the faithful partake of any benefit from them.” Here again he gives up the term, but retains the doctrine. In respect to the thirtieth, he is for mutual toleration as to receiving the Communion in both kinds. To the thirty-first Article he is opposed, maintaining that “the sacrifice of Christ is not only commemorated but continued in the Eucharist, and that every communicant offers himself along with the priest:” so that here he makes no concession whatsoever. Then he suspends his judgment as to the Homilies, because he says he never read them, and I do not, for my part, suppose, judging from this sketch of his “*Commonitorium*,” that if he had read them, he could possibly have approved of that Article.

The manner in which Archbishop Wake viewed this attempt, is to be collected from his letter given at page 41, and marked No. 3, addressed to Mr. Beauvoir, and dated August 30, 1718. After speaking of the proposed union, he says, "I do not think my character at all inferior to that of an Archbishop of Paris: on the contrary, without lessening the authority and dignity of the Church of England, I must say it is in some respects superior. If the Cardinal were in earnest for such an union, it would not be below him to treat with me himself about it. I should then have a sufficient ground to consult with my brethren, and to ask his Majesty's leave to correspond with him concerning it." In the next paragraph he speaks of Dupin. "I cannot well tell what to say to Dr. Dupin: if he thinks we are to take their direction what to retain, and what to give up, he is utterly mistaken. I am a friend to Peace, but more to Truth. And they may depend upon it I shall always account our Church to stand upon an equal foot with theirs; and that we are no more to receive laws from them than we desire to impose any upon them. In short, the Church of England is free, is orthodox: she has a plenary authority within herself, and has no need to recur to any other Church to direct her what to retain, or what to do." Again afterwards, in the next paragraph, "You see, Sir, what my sense of this matter is; and may, perhaps, think that I have a little altered my mind since this affair was first set on foot. As to my desire of peace and union with all other Christian Churches, I am still the same: but with the Doctor's "*Commonitorium*," I shall never comply. The matter must be put into another method; and whatever they think, they must alter some of their doctrines, and practices too, or an union with them can never be effected." In the further part of the Appendix, Dr. Maclaine gives a long correspondence between the Archbishop and Dupin, and others, upon the proposed union. And that correspondence shews that there was on both sides a sincere desire, if possible, to reconcile the two Churches; and, I believe, that the matter went further towards

accomplishment at that time than at any other. But, notwithstanding the sincerity of both parties, we find Dr. Dupin stating how far he could agree with the Articles of the Church of England, and yet being obliged to withhold his assent from several of them, and explain away others; and, on the other hand, we find Archbishop Wake writing to a friend, that he valued truth more than unity, and that all the concessions which Dupin could make were not sufficient to satisfy that truth which he was determined to maintain. I do not think it would be possible to put the matter stronger than this.

Several works have been quoted to the Court to shew what is contained in subscription to the Articles. I will not repeat those quotations, but wish to fortify that part of the subject, by adducing one or two passages, which have not as yet been submitted to the Court. And first, from Bishop Tomline, in the 2nd volume of his "*Christian Theology*," p. 36. "These thirty-nine Articles are arranged with great judgment and perspicuity, and may be considered under four general divisions; the first five contain the Christian Doctrines concerning the Father, the Son, and the Holy Ghost; in the sixth, seventh, and eighth, the rule of Faith is established; the next ten relate to Christians as individuals; and the remaining twenty-one relate to them as they are members of a religious society. But as all confessions of faith have had a reference to existing heresies, we shall here find not only the positive doctrines of the Gospel asserted, but also the principal errors and corruptions of the Church of Rome, and most of the extravagancies into which certain Protestant sects fell at the time of the Reformation, rejected and condemned." This forms part of his preface to his exposition of the Thirty-nine Articles, and he concludes that work with the following observations. "I do willingly and ex animo subscribe to the Thirty-nine Articles of the Church of England, is the indispensable form of subscription; and, therefore, it behoves every one before he offers himself a candidate for Holy Orders, to peruse carefully the Articles of our Church, and to compare them with the written

Word of God..... It is not indeed necessary that he should approve every word or expression, but he ought to believe all the fundamental doctrines of the Articles ; all those tenets in which our Church differs from other Churches, or from other sects of Christians. He ought to feel that he can, from his own conviction, maintain the purity of our established religion, and sincerely and zealously enforce those points of faith and practice, which our Church declares to be the revealed will of God. This appears to me the only ground of conscientious subscription to the Articles ; and let it be ever remembered, that in a business of this serious and important nature, no species whatever of evasion, subterfuge, or reserve, is to be allowed, or can be practised, without incurring the wrath of God. The Articles are to be subscribed in their plain and obvious sense, and assent is to be given to them simply and unequivocally."

The same view is also taken by another Prelate of our Church, Bishop Conybeare, in his Tract upon Subscription, which is given in the third vol. of Bishop Randolph's *Enchiridion*. Speaking of the clergy in page 240, he writes :—" To this may be added, that there are other doctrines, which are rather preservative of Scripture truth, than directly expressed in Scripture : thus, for instance, the Church of Rome having advanced very groundless and dangerous doctrines concerning Purgatory, indulgences, and the like, it has been judged proper to declare against these errors, and to guard against such corruptions, by requiring every minister to subscribe a condemnation of them." Therefore, according to the view of this learned Bishop, a person subscribing the Thirty-nine Articles, is subscribing a condemnation of the errors of Romanism. He enters more at length into the question, but I have quoted sufficient for my present purpose.

Now, Sir, really there is not, so far as I am aware, a single divine in the Church of England who disagrees with these authorities, or who questions the position, that the Articles of the Church of England were written to oppose the doctrine of

the Church of Rome ; and, of course, as a necessary consequence, that the doctrine of the Church of Rome is utterly inconsistent with them.

But before I quit this part of the subject, I desire to adduce a few testimonies furnished by several successive Archbishops of Canterbury in their writings, and public acts, as to their views of Roman doctrine.

I need not again refer to ARCHBISHOP PARKER, as I have already shown, that the principal arrangement and alteration of the Articles in 1562 was his work, and have sufficiently called the Court's attention to other of his acts about the same period.

I therefore pass on to ARCHBISHOP GRINDALL. And among his works, as published by the Parker Society, at page 163, are given his visitation Articles within the province of Canterbury. Article 19 is thus :—" Whether any of your parsons, vicars, curates, or ministers, be favourers of the Romish or foreign power, letters of true religion, preachers of corrupt and Popish doctrine, or maintainers of sectaries, or do set forth and extol vain and superstitious religion, or be maintainers of the unlearned people in ignorance and error, encouraging or moving them rather to pray in an unknown tongue than in English, or to put their trust in a certain number of prayers, as in saying over a number of beads, Lady Psalters, or other like." And again, in Article twenty-three :—" Whether any of your parsons, vicars, curates, or ministers, or any other priest, or any layman, or woman, do wilfully maintain or defend any heresies, false opinions, or Popish errors, contrary to the laws of Almighty God, and true doctrine by public authority in this realm now set forth," and if so, they are directed to give their names, &c. There are also other Articles to the same effect, but these may suffice to show Archbishop Grindall's view of Roman doctrine.

As next in order, I now take ARCHBISHOP WHITGIFT ; and in respect of him, I will quote a passage from his "*Defence of the Answer to the Admonition*," and for convenience, shall cite it

from the preface to Bishop Stillingfleet's *Treatise on Idolatry*, "I do as much dislike the distinction of the Papists, and the intent of it as any man doth, neither do I go about to excuse them from wicked, and without repentance, and God's singular mercy, damnable idolatry." He subsequently enters into this charge more at length, but this clearly shows his general view of their doctrine.

ARCHBISHOP BANCROFT has also left us his testimony, in several of his Articles, which are given by Dr. Cardwell in the second volume of his *Documentary Annals*, page 108—Article thirty-seven. "Whether doth your minister, being a preacher, endeavour and labour diligently to reclaim the Popish recusants in his parish from their errors, if there be any such abiding; and whether is he painful in visiting the sick according to the Book of Common Prayer;" this was, therefore, considered to be the duty of a minister of the Church of England in that day, and I confess, I know of no reason why it should be otherwise now. There are several other of his Articles of the same tenor, but as this is sufficient, I shall not take up the time of the Court by quoting them.

Of ARCHBISHOP LAUD it will be sufficient to say, that he presided in the Convocation of 1640, when those Canons were passed to which I have already directed the Court's attention.

With respect to ARCHBISHOP ABBOTT. In his Life we have a letter, written by him to King James, respecting the proposed marriage of Prince Charles with the Infanta of Spain, and containing those words:—"Your Majesty hath propounded a toleration of religion. I beseech you to take into your consideration what your act is, and what the consequence may be; by your act you labour to set up the most damnable and heretical doctrine of the Church of Rome, the Whore of Babylon. How hateful it will be to God, and grievous to your good subjects, the professors of the Gospel, that your Majesty, who hath often disputed, and learnedly written against, should now show yourself a patron of those wicked doctrines which your pen hath told the world, and your

conscience tells yourself are superstitious, idolatrous, and detestable Besides, this toleration which you endeavour to set up by your Proclamation cannot be done without a Parliament, unless your Majesty will let your subjects see that you will take unto yourself ability to throw down the laws of your land at your pleasure."

The answer of King James is important, and it is to be found in the third part of a curious little book, entitled "*Foxes and Firebrands*," to which Strype frequently refers as a work of great authority :—"What our religion is, our books declare, our profession and our behaviour do show, and we hope in God we shall never live to be thought otherwise; sure we be we shall never deserve it. And for our part, we wish it may be written in marble and remain to posterity as a mark upon us when we shall swerve from our religion; for he who doth dissemble with God is not to be trusted by man. My Lords, we protest before God our heart hath bled when we heard of the increase of Popery; and God is our Judge, it hath been so great a grief unto us that it hath been like thorns in our eyes, and prickles in our sides; so far have we been, and ever shall be, from turning any other way. My Lords and Gentlemen, you shall all be our confessors; if we know any way better than other to hinder the growth of Popery we would take it. And he cannot be an honest man who, knowing as we do, and being persuaded as we be, would do otherwise."

We have, in addition, the testimony of ARCHBISHOP SANCROFT, in the second volume of the "*Documentary Annals*," page 374. The paper there given is entitled, "Some heads of things to be more fully insisted upon by the Bishops in their Addresses to the Clergy and people of their respective Dioceses." And the ninth head is, "That they often exhort all those of our Communion to continue steadfast to the end in their most holy faith, and constant to their professions; and to that end to take heed of all seducers, and especially of Popish emissaries, who are now in great numbers gone forth amongst them, and more busy and active than ever; and that they take all occasions to

convince our own that it is not enough for them to be members of an excellent Church, rightly and duly reformed both in faith and worship, unless they also reform and amend their own lives, and so order their conversation in all things as becomes the Gospel of Christ." Under the next head he writes,— "And forasmuch as those Romish emissaries, like the old serpent, 'insidiantur calcaneo,' are wont to be most busy and troublesome to our people at the end of their lives," &c., exhorting the Ministers to be at such seasons particularly active.

It is enough to say of ARCHBISHOP TILLOTSON that he wrote a Treatise, which may be found in the "*Enchiridion Theologicum Anti-Romanum*," bearing this title,— "The Hazard of being Saved in the Church of Rome." I need not quote from the work; the title is sufficient.

ARCHBISHOP TENNISON was the author of a work, "*On Idolatry*," and he heads Chapter 10, "Of the Idolatry with which the Roman Catholics are charged, and how far they are justly or unjustly accused." The examination into which he enters is too long for me to pursue, and I must, therefore, content myself with the bare statement, that it results in his establishing, upon a variety of grounds, that the charge is well founded.

I have already given the testimony of ARCHBISHOP WAKE when I referred to his correspondence with Dupin. But he also published a "*Discourse concerning the nature of Idolatry in which a late author's true and only notion of Idolatry is considered and refuted*," and in the second page of the Preface thereto, he says, "It seemed something strange that that author should think to trample upon us now, for pretending that the Church of Rome has defined Transubstantiation as it is understood by us, and that she has established an Idolatrous worship in the Communion: for not only the greatest persons of the Reformed Religion have brought this charge against her, but to the truth of it himself has subscribed in his time." And subsequently—"Though I am verily persuaded that the

Romanists, in the Invocation of Saints, and in the worship of Images and Reliques, and of the Host, are guilty of Idolatry, &c."

Lastly, I would call the Court's attention to ARCHBISHOP PORTER's works, vol. 1, page 292. In a charge delivered in 1719, when speaking of the shifts to which resort was then had, he says—"But there is one, which, if applied in its full extent, may serve instead of all the rest. It is this, that all Subscriptions, and other declarations of assent, are to be made with this tacit reservation; viz. *So far as they are agreeable to the Holy Scriptures*: or, which effectually answers the same purpose, that they may be understood *in any sense agreeable to the Scriptures*, even when this sense is notoriously repugnant both to the natural signification of the words, and to the manifest intention of those who impose them; which is said to be highly reasonable"—he takes the position which he is combatting from a writer of the day—"especially among Protestants; whose fundamental principle this hath always been, that nothing ought to be received as an Article of Faith, which is not plainly proved by the Scriptures. Now there might be some colour for this practice, had our own, and other Reformed Churches, declared their allowance of it: but this is not pretended; and had any such thing been designed, instead of long confessions of faith consisting of many Articles, wherein, besides other errors and hereesies, those of the Church of Rome are expressly condemned, it would have been sufficient, in one Article or Proposition, to have asserted the truth of the Holy Scriptures;"—And further on,—"Neither is there any just cause why the benefits of this evasion should not be made use of in Popish countries, as well as Protestant; for, although the Papists believe Tradition to be a sufficient ground of faith, yet they do not believe that Scripture and Tradition contradict each other; and their best writers maintain that all their traditions are contained in the written Word of God; though, perhaps, not so clearly and fully as to be made Articles of Faith before the decision of the Church. Here then is a principle, which, had it been formerly well understood, might

have saved the lives of thousands of Protestants; who, by saying only within themselves, that they intended nothing disagreeable to the Scriptures, might safely have set their hands to the doctrine of Transubstantiation, Purgatory, Invocation of Saints, and whatever else hath been decreed, either by that of Trent, or any other Popish Council."

Thus we have the united testimony of all the successive Archbishops of Canterbury for nearly 200 years, (omitting only the Archbishops Juxon and Sheldon, who have left no works from which we can gather any matter of the kind), and that testimony is, that the doctrine of the Papacy is contrary, and opposed to the doctrine held by the Church of which severally they were primates.

The last point to which I call the Court's attention, arises from the legal position of Her Majesty, as the Head of the Ecclesiastical Establishment in this country. I wish to draw the Court's attention to that which is required of an English Monarch by the several Acts of Parliament. The Act of Settlement, 1 W. & M. sess. 2, c. 2, s. 9, enacts, "That every King and Queen of this Realm, who at any time hereafter, shall come to and succeed in the Imperial Crown of this Kingdom, shall, on the first day of the meeting of the first Parliament, next after his or her coming to the Crown, sitting in his or her throne in the House of Peers, in the presence of the Lords and Commons therein assembled, or at his or her Coronation, before such person or persons who shall administer the Coronation Oath to him or her, at the time of his or her taking the said Oath (which shall first happen) make, subscribe and audibly repeat the declaration mentioned in the Statute made in the thirtieth year of King Charles the Second." Now upon referring to that Statute, we find the declaration to be as follows—"I, A. B. do solemnly and sincerely in the presence of God profess, testify and declare, That I do believe, that in the Sacrament of the Lord's Supper, there is not any Transubstantiation of the Elements of Bread and Wine into the Body and Blood of Christ at or after the Consecration thereof by any

person whatsoever : And that the Invocation or Adoration of the Virgin Mary or any other Saint, and the Sacrifice of the Mass, as they are now used in the Church of Rome, are Superstitious and Idolatrous : And I do solemnly, in the presence of God, profess, testify and declare, that I do make this Declaration, and every part thereof in the plain and ordinary sense of the words read unto me, as they are commonly understood by English Protestants, without any evasion, equivocation or mental reservation whatsoever, and without any Dispensation already granted me for this purpose by the Pope, or any other authority or person whatsoever, or without any hope of any such Dispensation from any person or authority whatsoever, or without thinking that I am or can be acquitted before God or man, or absolved of this Declaration or any part thereof, although the Pope, or any other person or persons, or power whatsoever, should dispense with or annul the same, or declare that it was null or void from the beginning." Also by the 1 W. & M. c. 6, which establishes the Coronation Oath, the Archbishop or Bishop is directed to ask the King or Queen at the time of the Coronation,—“ Will you, to the utmost of your power, maintain the Laws of God, the true profession of the Gospel, and the Protestant Reformed Religion established by Law ?”

I say, Sir, therefore, the Establishment in England is a *Protestant* Establishment, and over that Protestant Establishment, it is necessary that a Protestant Monarch should preside. That the Church of England is rightly called Protestant, has been shown from her Articles, her history, and the united testimony of her most able divines, supported as they are in this, by the admissions and acts of those who differ from her. No wonder, therefore, that a Protestant Declaration should by law be required from the King or Queen who has to take the legal position of head of that Establishment. This is, I apprehend, the true reason why it is enjoined. If, then, the Church of England be Protestant, against what does she protest ? It can only be against the Roman doctrines, and by publicly main-

taining these, Mr. Oakeley strikes a heavy blow at the Established Church, of which he is a Minister.

Mr. Oakeley might have offended against religion generally.—He might have committed an offence against morality.—He might have committed a variety of Ecclesiastical offences,—but in respect to offences against the Church Establishment, in which he is a Minister, it is scarcely possible to imagine how he could have been guilty of a greater offence, than that with which he stands charged. For he has publicly declared, and done all in his power to disseminate his belief in the whole of that doctrine against which his Church so emphatically protests. His offence, therefore, appears to me in this view of it, to be no small one. For if the Church of England is to continue an independent Church, and to be able to justify that independence, she must do so, as she has always done, upon the ground of the fatal and fundamental errors of the Church of Rome, from which she separated at the Reformation. Unable to do that, she is, by her own showing, guilty of schism, and ought to retire from the position she occupies. Therefore, it appears to me, and I again press it on the Court, that, as regards the Establishment and Independence of the Church of England, Mr. Oakeley, by printing this Pamphlet has committed a very serious Ecclesiastical offence, and one calling for the severest censures of this Court.

THE COURT.—Before this argument is concluded, I should be glad to hear a little more as to the manner in which the charge is set forth in the Articles. A great deal of learning has been adduced, for which I am much obliged to the learned Counsel, respecting the difference in point of Doctrine between the Church of Rome and the Church of England, but I should wish to hear further upon the practice of the Court. The Articles are laid extremely generally. Without going through them—this gentleman is cited to answer for having set forth doctrines which are directly contrary and repugnant to the Articles of the Church of England. Now, the proof referred

to is the contents of this Pamphlet, and from thence I must collect it. I should, therefore, like to hear, a little more particularly, what has been the practice in other cases; for possibly this may turn out to be the most material point. If this proceeding had been under the 13th Elizabeth, which was adverted to by the *Queen's Advocate*, but subsequently abandoned, I must have called upon Mr. Oakeley to retract all he has said, or is supposed to have said, in the Pamphlet against all, or some of the Thirty-nine Articles before I could have pronounced a sentence of deprivation. I should be glad to know how that could have been done?

That Statute is now abandoned, and, I am now called upon, under the general law, to revoke the license of Mr. Oakeley, and to prohibit him from preaching within the Diocese of London. I should therefore like to hear more as to the practice pursued in other cases of a somewhat similar description;—for of a precisely similar description there may be none. On this point in a previous stage of the argument, I have been referred to *Saunders v. Head*, *Salter v. Davies*, and *The King's Proctor v. Stone*, in which I think a distinction was taken.

The Queen's Advocate.—I am not aware of any proceedings for heresy, excepting the cases which the Court has mentioned, although I caused search to be made for one hundred and fifty years back. There is indeed *Whiston's case*, which is fortunately in print. In that case, the Articles were drawn very much as they are here. There was also a case at Gloucester, but there is, so far as I know, no trace of any other case.

THE COURT.—If there is no precedent, then as to principle.

The Queen's Advocate.—In the case of *Stone*, there was a specific offence against a particular statute; but in the case of *Head*, the offence was general, and was laid so. In *Whiston's case*, the offence was laid in the same manner.

The Queen's Advocate then went through the Articles exhibited against Mr. Whiston, in order to point this out.

THE COURT.—But those Articles mention a particular doctrine, against which Mr. Whiston had written.

The Queen's Advocate.—In the present case there is no particular doctrine impugned. Mr. Oakeley maintains the Roman doctrine generally, and it was therefore, necessary to lay the charge generally. In *Salter v. Davies*, the charge is that the party cited, affirmed the Church of Rome to be the true Mother Church.

THE COURT.—That is pretty strong.

The Queen's Advocate.—Yes; but the Court sees it was a specific averment, and therefore capable of being specifically pleaded.

Mr. Bowdler.—I was going to ask permission to state, that I believe it to be doubtful whether the Articles in Mr. Whiston's case were ever admitted. I believe, in point of fact, that they were not; at least, that was the result of the inquiries which were made, for there is no record of them in the registry. I should be happy to afford any assistance. In *Evans and Evans*, the Articles will be found in the registry. I have a copy of them, and nothing can be more specific than they are.

The Queen's Advocate.—They were from Gloucester.

Mr. Bowdler.—Yes. And nothing can be more specific.

THE COURT.—Doctor *Bayford*, have you anything to say on the practice?

Dr. *Bayford*.—The offence is, in itself, of an indefinite nature; for Mr. Oakeley is charged with maintaining all Roman doctrine. Now, if we had set forth the particular laws of the Church of England, against which this was levelled, we must have introduced nearly every Article and every Canon; for it appears to me, that if we had omitted any one, we should have been precluded from going into that part of the case. Therefore we must have inserted in the Articles, every one of those which have been brought under the notice of the Court, at least so far as we intended to rely upon them. That being so, it appears to me, that as there are other instances wherein a statement of the particular law has been omitted (and in cases too where it might have been introduced), then these cases furnish a precedent for the present case, wherein the intro-

duction of the law would be attended with such difficulty. I do not know that I can put it farther than that. The Court will also remember that the Articles were admitted without opposition.

THE COURT.—That might be prudent. I must, of course, take time to consider this case. It is most important, in many respects, and not a little so as to the practice.

[The above Arguments of Counsel were heard upon the third Session of Trinity Term, the 10th of June, 1845. And the Judge delivered the following Judgment on the Bye-Day after Trinity Term, the 30th of June, 1845.]

JUDGMENT.

SIR HERBERT JENNER FUST.

The question which the Court is now called upon to decide, is one of a most important nature, considering the peculiar circumstances of the times, and the dissensions which have so long and so unhappily prevailed amongst the members of our Church, and which still continue to disturb its peace. And the Court cannot but be sensible of the heavy weight of responsibility thrown upon it, and the consequences, good or evil, in which its decision may possibly result; but it has no alternative; it cannot escape the burden which is thus cast upon it, and must, therefore, proceed to discharge its duty in the best way it is able.

The peculiar circumstances, under which this case has been presented, might, perhaps, have justified me in taking further time for deliberation, and for the fuller consideration of the learned and able arguments, which have been addressed to me by the Counsel on the part of the Promoter, supported, as they were, by a reference to numerous authorities, taken from writers of acknowledged learning and ability. But, as the last regular Court day of the Term has now arrived, if judgment were not pronounced to-day, this case, in all probability, must remain over the long Vacation; the Court has therefore, thought it not right, either to the parties immediately before it, or to the public, whose interests are so materially concerned, to leave the result in doubt, for a period of nearly four months, and has determined, notwithstanding the short interval which has elapsed since the hearing of the case, to proceed at once to pronounce its sentence.

The present question comes before me by virtue of Letters of Request from the Lord Bishop of London, and under the

provisions of the Church Discipline Act, which gives a power to the Bishop of the Diocese, in which any Clergyman of the Church of England "may be charged with any offence against the Ecclesiastical Laws, or concerning whom there may exist scandal or evil report as having so offended," to institute a commission of inquiry, or to send the case at once to be heard in this Court, the Court of Appeal of the Province. His Lordship has thought proper to adopt the latter course, and it is, therefore, by virtue of those Letters of Request that the case now comes before me for decision.

It will be necessary, in the first place, to state some of the proceedings: The Letters of Request were presented on the 8th day of April, in the present year. A Decree then issued: and on the 15th day of April, an Appearance was given on behalf of the party cited, and the Articles were brought in. These Articles, twelve in number, were admitted, without any opposition, on the second Session of Easter Term, the 22nd day of April—a negative issue was given, and, according to the usual practice, the Proctor was assigned to prove them. But upon the fourth Session of the Term, the 10th of May, the truth of certain of them was admitted in acts of Court, in consequence of which, no witnesses have been produced. No plea having been offered on behalf of the party cited, the case stood concluded upon the admission of the facts, to which I have adverted, as contained in the Articles; and the third Session of the present Term was appointed, with the assent of the Proctors on both sides, for the hearing of the case.

Under these circumstances, then, the Court is called upon to pronounce its judgment. And as, from the nature of the proceeding itself, and from the species of evidence adduced, there is nothing, but the contents of the Articles, either for the support of the charge, or for the defence of the party cited, I shall proceed, in the first place, to consider the several allegations therein contained.

The party proceeded against is called upon "to answer to certain Articles, Heads, Positions, or Interrogatories, touching and concerning his soul's health, and the lawful correction,

and reformation of his manners and excesses, and, more especially, for having written and published, or caused to be published, a certain Pamphlet entitled '*A Letter to the Lord Bishop of London on a Subject connected with the recent Proceedings at Oxford*,' in which said Pamphlet or Letter, doctrines are advisedly maintained and affirmed, contrary and repugnant to the true, usual, literal meaning of the Articles of Religion as by law established, some or one of them, and contrary to the said Laws, Statutes, Constitutions, and Canons Ecclesiastical of the Realm, and against the peace and unity of the united Church of England and Ireland, as it is now by law established." This was the form of the Decree issued by virtue of the Letters of Request. To that Decree, as I have said, an absolute appearance was given. There was no protest to the jurisdiction of the Court, nor was any objection taken to the form or substance of the Citation, and the Articles were admitted, for the purpose of going to proof, without opposition. *Prima facie*, therefore, it must be taken as admitted, that the charge of an Ecclesiastical offence is sufficiently set forth in these Articles, and that they are framed in such a manner as to entitle them to be admitted to proof, according to the rules and practice of this Court; although those rules by no means precluded the party cited from making any objection (if any could be made) at the hearing of the cause, either to the jurisdiction of the Court, or to the mode of pleading.

The Articles, then, plead, in the first place, the general law, which they set forth in the terms following; "We article and object to you the said Reverend Frederick Oakeley, Clerk, that you know, believe, or have heard, that by the Laws, Statutes, Constitutions, and Canons Ecclesiastical of the Realm, all ecclesiastical persons of what rank or condition soever, who have been admitted into Holy Orders of the United Church of England and Ireland, ought to adhere to, and maintain with constancy and sincerity, the Doctrines of the said Church, as by law established, and that whosoever,

having been so admitted, and having subscribed, and declared his assent to the Articles of religion agreed upon by the Archbishops and Bishops of both Provinces, and the whole clergy in the Convocation holden at London in the year of our Lord 1562, and ratified by the Royal Authority, shall revolt from, or impugn, or deprave the said Articles, or any of them, or any of the doctrines therein contained, ought to be punished and corrected according to the gravity of his offence and the exigency of the law : And we article and object of every thing in this and the subsequent Articles contained jointly and severally."—This, therefore, is the law upon which the present proceeding is instituted ; not any particular Canon, Constitution, or Statute, but the *general Ecclesiastical Law*,—a mode of proceeding which has been adopted by this Court in a variety of instances, and which has been always held to be a sufficient statement and exposition of the law, upon which it was intended to proceed.

[The learned Judge then proceeded to state the contents of the other Articles, but as the substance of these has already been given at the commencement of the argument of *Her Majesty's Advocate*, (see page 2, *ante*), it is deemed unnecessary to repeat it here.]

These, therefore, are the Articles containing the charge against Mr. Oakeley ; and, from them, it results, that the case is made to depend upon the effect of the Pamphlet or Letter addressed to the Lord Bishop of London, a copy of which is annexed to the Articles.

I have already said that Mr. Oakeley has, in acts of Court, made certain admissions, and that, in consequence of these admissions, no witnesses have been produced. I shall, therefore, proceed to consider the effect and extent of these admissions, and the nature of the Articles which still remain to be proved.

[For the exact terms of these admissions, which, although stated by the learned Judge, it is not considered necessary to insert here, see the opening of *Her Majesty's Advocate*, page 4, *ante*.]

Now, the admissions made by Mr. Oakeley amount to this—That in 1839 he subscribed the Thirty-nine Articles, and also the three Articles set forth in the thirty-sixth Canon:—That he is a Minister in Holy Orders of the United Church of England and Ireland, and that he is Minister of the Chapel mentioned in the citation:—That he was licensed by the Bishop of London to perform Divine Offices in that Chapel, with the consent of the Rector of the Parish:—That the Exhibit annexed to the Articles, being a copy of his license to officiate in Margaret Street Chapel, is a true and authentic document:—That he is the Author and Publisher of the Pamphlet pleaded, and that it contains the passages set forth in the Articles:—That the copy of the said Pamphlet annexed to the Articles, and the other Letter in Manuscript, which is also annexed to the Articles, are authentic:—And, lastly, that he is resident in the Diocese of London, in the Province of Canterbury, and, therefore, within the jurisdiction of this Court.

These admissions appear to have been very carefully and guardedly drawn up. They bear the marks of very great deliberation, inasmuch as it is impossible not to see that they commit Mr. Oakeley to nothing, which it would not have been altogether useless to have denied, and which, if he had denied, would only have led to an unnecessary expense of proof. But, in consequence of the cautious manner in which they have been framed, it becomes necessary to consider what Articles are not admitted, and what are the facts which remain to be proved.—How those facts are to be proved will be considered hereafter.

First.—Mr. Oakeley to the first Article admits nothing—He does not admit the law to be as pleaded—He says nothing about the law in any of his admissions. And here the Court may observe, that he was under no obligation to make any admissions whatsoever. The present is a criminal proceeding, in which he could not be required or compelled to answer the Articles, further than by giving a negative, or affirmative issue, denying or admitting the facts as pleaded. Any

further admissions he was fully at liberty to give, or withhold, as he pleased.

Secondly.—He does not admit in the fifth Article, that he has “maintained or affirmed, advisedly, in writing or otherwise, and does maintain or affirm doctrines contrary to, or repugnant to the true, usual, literal meaning of the Articles of Religion, as by law established, some or one of them.”

Thirdly.—He does not admit that he has maintained, or does still maintain, such doctrines in the Pamphlet which is exhibited.

Fourthly.—He does not admit that there is any scandal, or report, of his having offended against the Laws Ecclesiastical in the manner pleaded.

Fifthly.—He does not admit that he is subject to the jurisdiction of the Court, except so far as the same may be inferred from his residing in Margaret Street, in the Diocese of London, and Province of Canterbury.

Sixthly.—He does not admit the truth of what is alleged in the eleventh Article, viz., “that of and concerning the premises, it hath been rightly and duly complained to this Court;” nor that he ought to be canonically punished according to the gravity of his offence, and the exigency of the law, nor that he ought to be condemned in the costs of these proceedings.

The Court must now consider, in what way such parts of the Articles, as are not admitted, are proved. As to the law itself, no proof is necessary beyond a reference to the Canons and Articles of the Church. The doctrines maintained by Mr. Oakeley must be collected from the Pamphlet, or Letter, upon which alone the charge against him is founded, and which is the only proof before the Court of his maintaining those doctrines. And the proof of the other matters will necessarily follow from the establishment of those which precede them.

When this case was first submitted to the consideration of the Court, I entertained some doubt whether the Articles sufficiently specified the offence with which Mr. Oakeley stands charged. That they sufficiently pleaded the law I had no doubt, because the form used is that, which has been adopted

in Articles of this description upon very many occasions; but I certainly at first did not feel satisfied that the particular doctrine, which Mr. Oakeley is charged with having maintained, was alleged in the Articles with sufficient specification. The Articles, indeed, set forth various passages taken from his Pamphlet, but they do not allege that he thereby affirmed any particular doctrine in opposition to the Articles of the Church of England. They do, however, allege generally, that in the passages selected, he did maintain and affirm doctrines repugnant to, and opposed to, the doctrines of the Church of England. This general form of pleading certainly did, in the first instance, attract my attention, and I did expect (if I had had the advantage of hearing the arguments of Counsel on behalf of Mr. Oakeley), to have heard some remarks made upon it. Mr. Oakeley, however, has not thought proper to address the Court, either in his own person, or by Counsel, but after the best consideration which the Court has been able, thus left to itself, to give to the case, and after referring to former cases, it is of opinion that those doctrines are, under the circumstances of this case, pleaded with sufficient specification.

In all the cases which were mentioned in the argument, such as *Saunders* and *Davis* in the year 1690; the case of Mr. *Stone* before Lord Stowell, and also the late case of *Saunders* and *Head*, the particular doctrines to which reference was made, as being opposed to the Articles of the Church of England, were set forth specifically; but in the present case, it is expressly alleged that the doctrines maintained by the writer of the passages referred to, as contained in the Pamphlet are contrary to the doctrines of the Church of England. Again in the present case, Mr. Oakeley does not affirm any one particular doctrine, but affirms and maintains generally, his belief in all the doctrines of the Roman Church. He claims to hold "all Roman doctrine," and, whatever the doctrine of the Church of Rome may be, Mr. Oakeley asserts broadly, that he has a right to hold it, and (as I presume from his publishing the present Pamphlet) a right

to proclaim it. This case, therefore, is most materially distinguished from the others to which I have alluded, and it is also distinguished from the case of Whiston, before the High Court of Delegates. That case was brought forward under very peculiar circumstances. The proceedings were by Letters of Request, originally addressed by the Commissary of the Dean and Chapter of St. Paul's, to the Official Principal of the Court of Arches, who, however, declined to accept them, considering that he was not bound to do so, and that there were objections which justified his refusal. An appeal was instituted from his decision to the Court of Delegates, and that Court was of opinion, that the learned Judge had done wrong in refusing to accept the letters of request, and they therefore retained the principal cause, and proceeded to administer Articles to the Defendant in their own names.

These Articles are set forth in the third page of the Book published by Mr. Whiston himself. They specify the particular offence charged against him; and the weight of the objections urged against them may be best ascertained by referring to the report of the argument which is given at great length. But whether this argument took place upon the admission of the Articles, or upon the hearing of the cause, after they had been admitted and proved, does not distinctly appear; although from the remarks of the party himself, it should rather seem to have been before the Articles were admitted, because he objects to the authority of the Court of Delegates,—a Court so constituted—to administer any Articles of the description of those then exhibited. What ultimately became of the case, does not appear, for Mr. Whiston states, at the conclusion of the report, that the arguments of Counsel, which were long and learned, were not printed; because, either from the delay, or total abandonment, or postponement of the cause, in some way or other, it never came on for final decision. I have looked into the Articles in that case, and they are as general as can possibly be, with the exception of stating the particular doctrines which are alleged to be in

opposition to the Articles of the Church of England. Those doctrines were, as in the case of Mr. Stone, the denial of the Divinity of Our Saviour. It was easy, therefore, in both those cases, to set forth, not only the objectionable parts extracted from the writings, or sermons of the individuals proceeded against, but also the particular Article, or Articles of the Church of England to which they were opposed. But what is to be done in a case where the claim is so general as it is here—where the party claims to hold, and does, as it appears to me, affirm and maintain *all* the doctrines of the Church of Rome, be they what they may? How is that to be specifically set forth, or laid as being in opposition to any one of the Thirty-nine Articles? I am, therefore, of opinion that the charge is sufficiently laid in these Articles, and that if the Court had been addressed by learned Counsel on behalf of Mr. Oakeley on that part of the case, it would have been obliged to overrule the objection, and proceed to consider, whether there were before it sufficient proof of the facts necessary to be established.

Having, as I have already remarked, no assistance afforded me either by the party himself, or by his Counsel, I must collect the proof of the charge made against him in the best way I am able, from the contents of his Pamphlet addressed to the Bishop of London; I cannot travel out of that Pamphlet, to consider whether any explanation might be possibly afforded of any of the expressions or passages contained in it. I am bound to adhere to its contents, both in respect of the proof of the charge and of the defence, and I must put such a construction upon them as the words themselves may naturally suggest.

In the performance of this duty thus imposed upon me, it will be necessary to examine minutely several of the passages contained in the Pamphlet, and if I should put a construction upon any part of it which it was not intended by its author to bear, Mr. Oakeley must remember, that, by making no defence, he has deprived the Court of any means of explaining his Pamphlet, except those which its own con-

tents furnish. The Court at one time thought it not improbable, that such an examination might have been rendered unnecessary, by the negative issue given in this case being withdrawn, and an affirmative issue being substituted for it,—a course which might have been adopted with the consent of the other party. But Mr. Oakeley still persists in denying that he has committed the offence with which he is charged. He appears by his Proctor, who very properly, when the cause was heard, on the former Court day, addressed to the Court some observations upon the case of Whiston, which was referred to by the Counsel on the otherside. He is therefore, still before the Court denying the truth of the charge against him, and leaving the Court to dispose of the matter as it best may.

I now therefore proceed to examine the Pamphlet itself. It is entitled, "*A Letter to the Lord Bishop of London, on a Subject connected with the recent Proceedings at Oxford, by the Rev. Frederick Oakeley, M.A., Fellow of Baliol College, Oxford, Prebendary of Lichfield, and Minister of Margaret Chapel, St. Marylebone.*" It appears to be printed in the present year, 1845; and the authenticity of the copy annexed to the Articles being admitted, the offence, if any, contained in it, was obviously committed within the period of time (namely, two years) within which the inquiries of this Court are limited by the Act of Parliament. The purport of the Pamphlet or Letter, seems to be to offer to the Bishop of London some explanation of the conduct adopted by Mr. Oakeley, on the occasion of certain proceedings commenced by the University of Oxford against the Rev. Mr. Ward, a member of that University, and in which proceedings Mr. Oakeley appears to have taken an active and zealous part in support of Mr. Ward, and to have endeavoured to justify Mr. Ward's claim to hold certain doctrines, and his right to sign the Thirty-nine Articles in a certain sense. With respect to Mr. Ward,—the Court has nothing whatever before it, except what is contained in this Pamphlet, and the reference therein made to the proceedings against him, and even this has nothing to

do with the present case, except so far as it may tend to elucidate the meaning of any thing stated by Mr. Oakeley.

Now, in page 7 of the Pamphlet, Mr. Oakeley, after having, at the commencement of the passage, alluded to the measures which were taken by the University of Oxford against Mr. Ward, proceeds thus: "But the matter became far otherwise when the measure which Convocation was called upon either to affirm or negative, came out in a form not *really* (as I maintain) but still *apparently* reflecting on a certain *mode of subscription to the Articles*." And in the next paragraph:—"With respect to myself, it is no news to your Lordship or to the public at large, that almost as soon as the measures against Mr. Ward were announced, I felt myself called upon to declare, that I sign the Articles in the sense which Mr. Ward vindicates." He therefore places himself in the situation of Mr. Ward, and says, that, in respect to the sense in which he signs the Thirty-nine Articles, it is the same identically with that in which Mr. Ward signed them. "This was little more than a repetition of what I said years ago; for as far back as 1841, I put out a Pamphlet, the object of which was to prove historically that the Articles were *intended* to include the Catholics of the time, and that this circumstance might very fairly be taken to illustrate the position which had been maintained by others: namely, that their wording does not *in terminis* exclude the formal decisions of the later Church as contradistinguished from certain popular misrepresentations of those decisions." So that in the year 1841, Mr. Oakeley gave an historical account of the framing of the Thirty-nine Articles, therein showing, or professing to show, that they were originally framed for the purpose of including the Catholics of the time; and in that publication (with which, however, this Court has no concern except from there being an incidental allusion to it in the Pamphlet now before it,) he says he maintained that he had a right to sign the Thirty-nine Articles in a certain sense, whatever that sense might be.

In page 8 of the Pamphlet he resumes:—"Now, if your

Lordship, or any other person, asks why I felt it necessary to say what I did when the propositions relating to Mr. Ward made their appearance, considering the very serious consequences to myself and even to the Church of England, which such an act might entail, I answer first, that I considered it a plain matter of duty to Mr. Ward not to allow him to sustain alone the whole brunt of a battle; in which I feel that I ought to stand by him." That is, I believe, and profess, and maintain the same right to hold the decisions of the later Church, as distinguished from certain misrepresentations of those decisions,—and, therefore, I felt I ought to stand by Mr. Ward and not desert him in the situation in which he was then placed. He goes on to say:—"Secondly, I was not without hopes, however feeble, that with many minds, the circumstance of knowing that the attack upon Mr. Ward might very probably affect others besides himself, might tell as an argument against taking the *first* step in a certain direction. Thirdly, I felt it likewise due to the Hebdomadal Board itself, to give that Board a full and clear foresight of the possible consequences of the proposed measures. Not, of course, that I wished the Hebdomadal Board to pause, in what it might consider an act of duty to the University, through the mere apprehension of consequences; still less, as I hope I need not say, because I supposed that my own poor name could carry any great weight either with the Board or with the other Members of Convocation, but merely because I thought it right all persons should know exactly what they were about in taking, what I felt to be, the *first of a series* of aggressive steps." In this manner Mr. Oakeley expresses himself respecting the step which he took to support Mr. Ward, and to assert the same rights and the same doctrines and principles which Mr. Ward had been defending. He proceeds a little further on:—"I offered myself, as plainly as I could offer myself, without seeming to act in a spirit of disrespect and defiance, to encounter a like penalty to that with which Mr. Ward had just been visited. But at the same time I stated, and here I think your Lordship and the public will

bear me out in considering that I was justified in stating, that, supposing no measures of penalty to be instituted against me, I should regard myself after that plain and public declaration, as justified in maintaining, without even the suspicion of dishonesty and disingenuousness, my present place in the University."

So much of this Letter it was necessary to read as being introductory to that which follows, and which more particularly relates to the position in which Mr. Oakeley stands in relation to the Bishop of London, as a Clergyman of that Diocese. Whether Mr. Oakeley's explanation has proved satisfactory to the learned body to which it was addressed, or whether they concur in the opinion, that, after expressing such a declaration, he might continue to regard himself as justified in maintaining, "without even the suspicion of dishonesty and disingenuousness his present place in the University," is a question for the University of Oxford to decide. This Court has no jurisdiction to inquire into that matter, and perhaps Mr. Oakeley may be right in stating that, as to what passed on that occasion, it is a question between himself and the University, and to be considered in the light of a mere academical discussion. But the case is most materially altered when Mr. Oakeley comes forward as a Minister of the Church of England, offering to his Diocesan an explanation of his conduct upon that occasion; for then it no longer remains a question between himself and the University of Oxford, but it becomes a question between him and his Diocesan, and the Church to which he belongs. The doctrine which in that character he claims a right to hold and to profess, is a legitimate matter of inquiry in these Courts. It is true that in the Pamphlet now before the Court, he addresses himself to his Diocesan, as he states, by way of explanation of his conduct in the University, but if in the character of a Minister of the Church of England, he is found to hold or to claim a right to hold any doctrines adverse to the Thirty-nine Articles, which contain the prin-

ciples upon which the Church of England is founded, and by which it is governed, the right and duty of the Diocesan attach to inquire what those doctrines are, and in what manner they are maintained and affirmed.

Mr. Oakeley himself also admits that the Bishop has a right to call for an explanation. He says (page 10),—"But now I will say why I feel it right to explain my course to your Lordship. I did not, and I do not forget, that although I am a member of the University, I am likewise a Clergyman ministering in your Lordship's Diocese. Nor again, do I lose sight of the fact that my Letter to the Vice Chancellor, as its very object required, has been made extensively public. I am really not aware that any person has commented on my proceeding as one in any way likely to involve your Lordship, although my Bishop. I think that my act strikes every one, as I should naturally expect it to strike them, in the light of a merely academical procedure." That may or may not be the case. Of what passed at Oxford, this Court has no information. There is nothing judicially before it, except the contents of this Pamphlet, and, therefore, upon any doctrines which may have been maintained by Mr. Oakeley in any letter written to the Vice Chancellor, the Court can form no opinion. To resume, Mr. Oakeley says,—“I think that my act strikes every one, as I should naturally expect it to strike them, in the light of a merely academical procedure, dictated solely by the sense of my academical relations, and having reference to an issue determinable (according to the general view), and at all events to be determined *in* the University. But because there happens to be no sort of outcry on the subject, this is no reason why I should abstain from giving your Lordship these explanations of my step which may tend to clear it, in your Lordship's mind, from the suspicion of wantonness or undutifulness. I do not deny that it may naturally strike your Lordship as a gratuitous and disturbing movement.” The Pamphlet before me, therefore,

contains Mr. Oakeley's explanation offered to his Bishop of an act, which, he himself considers, must necessarily strike his Lordship as being a gratuitous and uncalled for disturbance of the Church. "Nor, again, (he continues) could I be surprised to hear that your Lordship has been seriously startled by my further declaration of an opinion, that the Articles are *subscribable* in what may be called an ultra-Catholic sense, so as to involve no necessary renunciation, on the subscriber's part, of any formal decision of the Western Church, and that I myself actually so subscribe them."

With respect to the sense in which Mr. Oakeley considered himself entitled to sign the Thirty-nine Articles, it does not properly belong to the present consideration; and the Court can only refer to it incidentally, and for the purpose of shewing upon what grounds Mr. Oakeley contends that he has a right to continue to hold the doctrines which he maintains. I am not sitting here to pass a judgment upon him for having subscribed the Thirty-nine Articles in any other sense than that which the language of the Articles would warrant, and necessarily import: but I sit here to decide whether he has, in this Pamphlet, set forth and maintained Doctrines which are opposed to those of the Church of England, as contained in the Thirty-nine Articles, and the Canons and Constitutions Ecclesiastical of the Realm. If he shall be found so to have done, upon a fair construction given to the different parts of his Pamphlet, then I have nothing to do with the reasons which he may have assigned to himself as an excuse for signing the Articles in a sense which he calls ultra-Catholic, but which, from other portions of the Pamphlet, will appear to be in the sense of the Roman Church.

I may, however, remark that the impression which he admits his declaration was likely to create in the mind of his Diocesan, namely that this was "a gratuitous and disturbing movement," ought to have made him pause, before he ventured to give publicity to such an explanation as this, and offered to a Bishop of that Church, of which he himself is a Minister. He, however,

has not abstained from taking this step, and must, therefore, be answerable for the consequences.

Mr. Oakeley proceeds, "I do admit that, considering the temper of our Church, there is something apparently wanton in such an announcement; that it requires in mere charity, some intelligible explanation."—I wish I could find in the course of this Letter that any intelligible explanation had been given.—I have endeavoured, so far as I could, to arrive at Mr. Oakeley's real meaning, but have been quite unable to collect any such explanation from the Pamphlet itself (to the contents of which I am necessarily confined), of this "apparently wanton announcement." He continues, "and that my own Bishop is, of all other persons, the one to whom it is most natural to explain it. It is for these reasons that I come forward before the Public, first, to *account* to your Lordship for the act; and second, to *explain the meaning* of the Declaration in question." Now, then, we approach to the explanation of the meaning of the Declaration which Mr. Oakeley has made.—He says, "The former part of my task I have already accomplished," that is, I have accounted to your Lordship for the act—whether satisfactorily, or not, is another question; "and now I will proceed to the latter," that is, to explain the meaning of the Declaration in question, namely, that he has subscribed the Thirty-nine Articles in a certain sense, and not in that which they, in plain grammatical construction, would bear.—"I wish your Lordship (he says) then very particularly to observe that in the passage of my Pamphlet, on Tract, 90, to which I refer in my Letter to the Vice Chancellor, I not only draw a distinction between *holding* Roman Doctrine and *teaching* it, but in a note to that passage, I explain very fully what I mean *by not teaching*, and how very far I carry out the principle which is involved in that distinction."—Here Mr. Oakeley refers to his Pamphlet on Tract 90,—which, however, is not before the Court, and to which therefore the Court can have no access for the present purpose.—But he says that he there draws a distinction between holding Roman Doctrine,

and teaching it; and that, in a note to that passage, he explains very fully how very far he carries out the principle which is involved in that distinction. I must here remark that he does not seem to use the word "teaching" in its most extended, but in a qualified sense; for if *teaching* in general had been intended, it would have been unnecessary to enter into that full explanation of what he means by *not teaching*. It is therefore whilst using the word "teaching" in a qualified sense, as will presently more plainly appear, that Mr. Oakeley draws the distinction between the right to hold, and the right to teach Roman Doctrines.

In the note to his former Pamphlet, which is inserted at length in the Pamphlet now before the Court, he says, "As respects *teaching*, however, there is no duty which I hold more sacred than that of abstaining in Sermons and other acts of public ministration, from the statement of Theological opinions, or the recommendation of devotional practices, allowed, as I conceive, by the Articles, but foreign to the views and habits of our Church."—Here then he gives from this former Pamphlet the first part of the explanation of what he considers his right to hold, and what he does not consider his right to teach. He makes this to consist, as I understand it, in his abstaining in Sermons and other acts of public ministration, from stating Theological opinions, or recommending devotional practices, which are agreeable to the construction, which he thinks proper to put upon the Thirty-nine Articles, but which he admits to be foreign to the views and habits of the Church. He continues, "And generally, I will say, even of what are called 'Church principles,' that it seems to me far better to *imply* them in our public teaching, than to assert them in a dogmatical and controversial way. It is in the very rudiments of faith and practice, that our flocks, as a general rule, need to be instructed. Moreover, to speak to them of Church authority, and such like subjects, when the whole practical system of our Church is in flat contradiction to such claims, is to tempt the more thoughtless to the use of words as mere unmeaning

sounds, or mere party symbols; and the more serious, to the disparagement of very real privileges which they possess, through craving after others, of which, it may be, that the thankful and diligent use of actual means is the appointed preliminary condition." In reference to the present inquiry—all which I can extract from this passage is, that he abstains from teaching in public ministrations certain practices and doctrines which he conceives to be allowed by the Articles, but which are foreign to the views and habits of our Church, and that he defends himself for so doing, upon the ground that this course is preferable to indulging in controversial discussion upon Theological points.

Mr. Oakeley next adds, "and now I wish to draw your Lordship's attention to the following point. The distinction in question is, as I contend, wholly irrelevant to my *question with the University*, for, in the University, it is not the practice of *teaching* certain doctrines which is even apparently impugned, but the *claim to hold* them." How the claim to hold them is to be made without, in some degree, teaching them by public declaration or writing, it is difficult to conceive. It cannot be that the mere holding of certain doctrines, unless they are proclaimed as the belief of the party who so holds them, can be esteemed objectionable, either in the University or in the Church; for who can know what are the doctrines held by an individual, except from his teaching, publishing, or proclaiming them? They must be sent forth to the world in some way or other; otherwise, neither the University, nor the Church, can determine what secret thoughts of an individual are opposed to the doctrines contained in the Articles of the Church.

Mr. Oakeley continues, "Mr. Ward himself never claimed to *teach* Roman doctrine; on the contrary, he urges over and over again, that such a procedure would be highly wrong under our circumstances." He, therefore, again identifies himself with Mr. Ward in the assertion of those doctrines which he says Mr. Ward vindicates "What Mr. Ward maintains, and

what the vote of Thursday seems to deny, is the *honesty* of subscribing the Articles in a certain sense. The University then, cannot pretend to let me off on the ground of the above distinction; for, with respect to it, I differ in no way from Mr. Ward, whom it has, by the hypothesis, condemned. Mr. Ward does not claim to *teach*. I claim to *hold*." There is, therefore, according to this passage, no distinction whatever between Mr. Ward and Mr. Oakeley; for as Mr. Ward did not claim to teach, so Mr. Oakeley only claims to hold the doctrines, such as they are, and such as they appear to be, by what follows. He, accordingly, calls upon the University not to favour him, inasmuch as his case is precisely and identically the same with Mr. Ward's. He would have no partiality shewn to him, for holding that he is at liberty to subscribe the Articles in any sense he may think proper to put on them, or for maintaining doctrines which, as will presently appear, are doctrines of the Church of Rome; for he says, the University cannot make this distinction between Mr. Ward's case and his.

"But," he further observes, "*with your Lordship*, I contend this distinction ought to, and will, receive consideration. Were I to be found *teaching* Roman doctrine in my public ministrations in your Lordship's Diocese, I should, as I feel, most deservedly expose myself to your Lordship's censure. It is plain that your Lordship, as a Bishop of our Church, could not, and would not, suffer it." Why, if the Thirty-nine Articles do permit the holding of certain doctrines,—if they are so lax in their phraseology as to make it doubtful whether they are opposed to Roman doctrine or not,—whether those Articles actually in terms declare such doctrine, or whether they are capable of being reconciled with it, can make no difference. For if they are capable of being reconciled with it, what right would the Bishop of London have to interfere with Mr. Oakeley for teaching Roman doctrine in his public ministrations? It is quite clear, therefore, that this is an admission that the doctrines

which he claims to hold, but which he abstains from teaching, are the doctrines of the Church of Rome, and, as such, opposed to the Articles of the Church of England. Otherwise he never could, in what he calls an explanation of his meaning, have expressed himself to the effect which he has done in the passage which I have read:—"Were I to be found *teaching* Roman doctrine in my public ministrations in your Lordship's Diocese, I should, as I feel, most deservedly expose myself to your Lordship's censure. It is plain that your Lordship, as a Bishop of our Church, could not, and would not, suffer it."

Before I quit this passage, I must confess myself unable to apprehend the distinction therein attempted. Mr. Oakeley there says, "I claim to *hold*, but I do not claim to *teach* Roman doctrine in my public ministrations;" and I presume from this, coupled with the publication of this Pamphlet, that he means to state that he may proclaim these doctrines on any or every other occasion. But if he possesses the right to hold them in this sense,—if he is at liberty to proclaim them in every other place, save in the Chapel of which he is the Minister, surely, it can never be affirmed that this is the mere *holding* of Roman doctrine in the usual meaning of the word. Is it not, on the contrary, the affirming and maintaining of Roman doctrines, that is of doctrines adverse, and such as are opposed to the Church of England? He also says he abstains from teaching this doctrine, and, using the word "teaching" in his sense of it, undoubtedly he cannot be accused of doing so: but still, he admits further on, that, by his holding it, some effect, at any rate, is produced upon his public teaching. For he confesses that it prevents him from controverting the Doctrines of the Church of Rome, and attempts to justify himself by saying that he also abstains from controverting dissent in any other sense.

But Mr. Oakeley clearly does not content himself with simply holding these Doctrines. If he does not teach them in his public ministrations, is not the Pamphlet which is now

under the consideration of the Court, sufficient to shew that he publicly maintains and affirms them? And *that* is the question which the Court is called upon to decide.

To resume the consideration of his Pamphlet.—He proceeds —“But what is the fact? It is that which I have stated in the above extract. Far from introducing in my public ministrations characteristically *Roman* doctrine,” that is, I conceive, what he means throughout, and which shews clearly, that when he subsequently uses the terms “The ultra Catholic sense,” he means characteristically Roman doctrine—doctrine exclusively belonging to the Roman Catholic Church, and directly opposed to the Church of which he is a minister. “Far from introducing in my public ministrations characteristically Roman doctrine, I am not in the habit of introducing (dogmatically and controversially) what some persons call (though I do not), by way of contradistinction from it *Catholic* doctrine,” thereby expressly identifying Roman doctrine with that which he calls Catholic doctrine. No other interpretation can be put on the words, than that the Roman doctrine which he speaks of, is the same with that which he afterwards terms the Catholic doctrine—that they are in his estimation one and the same, and that, consequently, wherever in this Pamphlet the term Catholic is applied to a Church, or to a doctrine, the meaning must be taken to be, the Roman Church and the Roman doctrine. At least I can find no other interpretation to put on the expressions which he has used in this passage.

Mr. Oakeley next refers to the doctrine of Apostolic succession, “which (he adds) I know is with many clergymen the great weapon of controversy with dissenters. To myself on the contrary, it seems together with its whole class of kindred subjects, a very unedifying topic in the pulpit, however important as a point in controversial writing.” And he then appeals to the congregation of which he is Minister to confirm what he has stated, namely, that the general subjects of his preaching are singularly uncontroversial.

In another passage, in page 14, and which is one of those set forth in the Articles, he writes,—“It may be replied that my public declaration on the subject of subscription, precludes me from preaching *against* the Roman doctrine.” This is the passage to which I before alluded, in which he asserts his right to abstain from preaching against Roman doctrine, and admits that he is precluded from preaching against it by his public declaration “most assuredly” (he continues) “it does. If my obligations as an English Clergyman require me to controvert the doctrines of Rome, then I freely admit I do not fulfil those obligations. But surely, my Lord, if I be justified in considering that there are things among us to be done more important than controverting *dissent*, *à multo fortiori* am I bound, upon any Catholic principles whatever, not to be harder on what your Lordship acknowledges to be a branch of the Catholic Church, than upon those who are not *even members of the Church of England*. It would indeed be hard to expect of me that I should spare dissenters at the expense of Catholics.” I do not know that Mr. Oakeley is required to spare either Dissenters, or Catholics, or that it is any justification to him for not opposing the one, that he does not oppose the other. And why it should be hard upon him, except on account of the doctrines which he maintains to spare Dissenters, at the expense of Catholics, I think it is impossible to say. He proceeds, “I take it for granted that I am generally supposed to controvert (I mean of course *directly* controvert) dissent; in that case, I admit that I might not unnaturally be called upon by those who consider our Church as a *via media*, to controvert supposed error in an opposite direction. But I really do not think that controversy of any sort is my ‘line.’” On this ground, then, Mr. Oakeley seeks to justify his abstaining from controverting the doctrines of the Church of Rome. Whether it would be right, or proper, for him in his public ministrations to discuss the points controverted between the Church of England and the Church of Rome, is not for this Court to determine.

But he appears to me to offer no sufficient justification for the neglect of one part of his duty, by alleging, that he had also neglected another part, as a kind of set-off. For it must be always recollected that it is the duty of a Minister of the Church of England, and as binding upon him as any other duty,—that it is an engagement into which he enters at the time of his ordination,—to do his best to banish and drive away *all* erroneous and strange doctrines.

Again, in the same page he writes thus, “I will make one or two further remarks only in connection with this part of the subject. My flock never so much as hear a (characteristically) Roman doctrine from my lips.” By this he means exclusively Roman doctrine, and not any of those doctrines, which the Church of Rome holds in common with the Church of England. “If those doctrines (he continues) be not intrinsically true, certainly I take the course of all others calculated to explode them. No Roman doctrine makes it way to the minds of those who are under me through my intervention. I very much doubt whether twenty members of my congregation, or one poor person in my district (except actual Roman Catholics) know even what Roman doctrine is.”

He next adverts to an objection which he had seen in certain Magazines and Newspapers against the distinction, which he says is to be made between holding and teaching, founded on the alleged impossibility of not teaching by implication what is in the mind of the Teacher. “The teaching, it is said, of one who holds a certain doctrine must needs be tinged with that doctrine. This, no doubt, would be true, if what is called ‘Romanism’ implied a certain *ἦθος*, or habit of mind, distinct from Catholicism. I suppose, for instance, that a Socinian could not hold his baleful heresy without, in a certain way, teaching it. And so again, no doubt a strictly Catholic temper results in strictly Catholic teaching, even though *doctrine* be not directly brought forward.” I confess, that I am unable to follow this

reasoning as to the distinction between a Socinian holding his doctrines, and a Clergyman of the Church of England holding "Romanism." He, however, continues,—“So far then I acknowledge the truth of the remark. But I deny that the teaching of one who holds Catholicism in the Roman form, but who studiously abstains from exhibiting specially Roman doctrine, will be in any way different from that of another who holds (essential) Catholicism at all, though in a less full-grown state of development.”—The distinction here attempted to be drawn between Catholicism in the Roman form, and essential Catholicism, I am at a loss to comprehend; for he has before declared and afterwards repeats that he makes no distinction between them. Mr. Oakeley, however, proceeds,—“Excepting, indeed, that I think he is less likely to allow particular Catholic truths to *protrude* in his teaching, above others. The objection, therefore, tells in no degree more strongly against what are denominated ‘Romanizers’ or ‘Romanists’ than against all teachers of a ‘Catholic’ profession, but rather, as I believe, less so.”

The next passage in the Pamphlet to which the Court will refer, occurs in page 17. As far as I have hitherto proceeded, Mr. Oakeley seems to have been contending for the right to hold Roman doctrine, provided he refrain from teaching it in his public ministrations. He now goes further; for in the passage which follows, he not only claims to hold those doctrines, but in some degree, or to some extent, to proclaim them. So that the holding of this doctrine is not to be altogether barren and unfruitful, but is to produce certain effects of whatever kind they may be. He supposes a question to be addressed to him, and in framing that question, he appears to me clearly and distinctly to point out the extent to which he claims to hold the Roman doctrine, not confining himself to one or two isolated points, but embracing the whole range of doctrines taught by the Roman Church. “But here I shall be asked, ‘Is then your claim to hold (as distinct from

teaching) all Roman doctrine, no more, after all than the assertion of a right to a merely *speculative* opinion?" The holding, which is merely speculative, must be that which is not announced, and published to the world. "Because, if so, you are doing yourself injustice, and coming forward, in an obnoxious character, for no sufficient purpose." Mr. Oakeley, therefore, asserts his claim universally, making no exception whatever: He says that his claim is—(for he himself frames the question which he puts to himself, and his own understanding of the claim must be taken to be that which he thus suggests) a claim to hold, as distinct from teaching, all Roman doctrine. He answers this question thus, "I reply frankly that my opinion is not merely speculative,"—that is, it is not merely an opinion, which he holds and confines to his own bosom.—It is not simply a point upon which he entertains certain opinions, and certain speculations. He proceeds: "I hope none of my opinions upon religious subjects are merely speculative. If I say that the view in question is not practical, I mean, that it in no way affects my teaching, except negatively,"—thus admitting that a negative effect, at any rate, is produced even upon his teaching by the opinions which he holds.

He says also, "I do not follow out a particular line of action, either in public or in private, with any view of making converts to Rome." Mr. Oakeley is not, in these proceedings, accused of doing so; whether he has been accused of this elsewhere is a question with which this Court has nothing to do, and to which it has no means of addressing itself. "I could wish, as best I might, to make people good Christians in the Church of England; I think that this is work enough for me. But more than this; if I see any one disposed to join the Church of Rome, my arguments with such an one are always in arrest, generally even in contravention of that step: though, even were it otherwise, I do not see how these could very consistently charge me with

tempting' persons to 'schism,' who are continually urging myself and others, who think with me, to quit the Church of England." This, then, is what Mr. Oakeley considers to be a conscientious discharge of his duty as an ordained Minister of the Church of England, namely, that it is quite sufficient for him not to preach Roman doctrine in his public ministrations in the pulpit, and not to attempt to convert persons to the Church of Rome. He takes no active part to prevent any one from joining the Church of Rome: or rather, I should say, he seems satisfied to prevent persons from quitting the Church of England, and resorting to that of Rome; not by controverting the doctrines of the Roman Church, and pointing out its errors, as his duty as a Minister of the Church of England on such an occasion would require, and as his engagement with his Bishop at the time of his Ordination, "to drive away all erroneous and strange doctrines," would prescribe,—but he satisfies himself with persuading such persons that there can be no necessity for them to quit the Church of England, although they should hold the Roman doctrine, which Mr. Oakeley himself professes to hold. He is satisfied, in the discharge of his duty, to persuade such persons not to withdraw themselves from the Church of England, although they may in their hearts dissent from it, and so remain outwardly professed members of that Church, whilst inwardly they are attached to another. Surely this can be no sufficient justification for Mr. Oakeley's conduct when offered to his Diocesan, to whom he expressly states that he considers himself bound to give an intelligible explanation! How can he persuade himself that he has thus satisfied all the demands of the Church? His own statement as to the conduct which he pursues, when he is consulted upon the propriety of a person leaving the Church of England for the Church of Rome, is, in fact, an evasion. His conduct in outwardly professing to be a member of one Church, whilst he is inwardly attached to the doctrines of another; and his declaration, that he signs the Thirty-nine Articles in a sense different from their

grammatical construction, in which he knows they ought to be signed, can hardly be reconciled with integrity. But having, by some means or other, persuaded himself that he has satisfied the demands of his Church, he proceeds further in his explanation:—"Still I do not at all deny that, where I plead for the utmost latitude in the interpretation of our formularies on the Catholic side, I mean something very real, and, in a certain sense, very practical. Now, then, I will crave your Lordship's kind attention for a while, that I may say what I *do* mean by the exceeding reluctance I feel to accept Anti-Roman limitations of our Articles and Prayer Book. I will try to analyse the feeling under which I regard it as a point of duty to my own communion to extract, nay, and if so be, extort, the most Catholic meaning possible from her apparently anti-Catholic determinations; and why, moreover, I cannot consent to draw those distinctions between the 'Catholic' and 'Roman' sense, upon which some of my respected friends are disposed to lay so great a stress."—Can there be any doubt, then, that the Catholic and the Roman sense are precisely and identically the same in Mr. Oakeley's estimation and understanding of those terms.—His assertion is, I cannot consent to draw those distinctions between the Catholic and the Roman sense, upon which some of my respected friends are disposed to lay so great a stress.—He admits, in the former part of the passage, which I have read, that the limitations of the Thirty-nine Articles and the Prayer Book are anti-Roman; for he asserts that he cannot accept anti-Roman limitations of the Articles and Prayer Book—that he cannot draw the distinction between the Catholic and the Roman sense, which some of his friends draw, and that he considers it to be a point of duty to his own communion (which communion he refers to may be somewhat doubtful—whether that of the Church, of which he is outwardly and professedly a member, or whether of the Church, whose doctrine he claims a right to hold and affirm) at all hazards, to extract a Catholic, that is, a Roman meaning from them.

And if this cannot be effected by fair argument and legitimate construction, Mr. Oakeley would consider himself fully justified even in *extorting* from them such a sense, as will best coincide with his own views—and this, whilst he professes his inability to draw any distinction between the Catholic and the Roman doctrine. Surely, this is a most extraordinary mode of explaining the exceeding reluctance which he feels to accept anti-Roman limitations of the Articles and Prayer Book. It is a most extraordinary confession, indeed, to be made by a Minister of that Church, which separated itself from the Church of Rome, upon points of vital and fundamental importance.

Mr. Oakeley next proceeds, "My Lord, I am not in the number of those who are able to draw a line between the earlier and later decisions of the Catholic Church. I can understand those who make a broad difference between 'primitive' and 'patristic' Christianity." That is, as I understand him, between *primitive* Christianity, or Christianity as taught by Our Saviour and his Apostles, and perhaps by their immediate descendants to the close of the third century—and *patristic* Christianity, or that taught by the fathers of the Church in the General Councils. He says, I can understand that distinction between primitive and patristic Christianity, "but (he adds) I cannot follow the further distinction between 'patristic' and 'mediæval.'" The meaning, therefore, of this passage, as I understand it, amounts to this.—In the three first centuries, generally called the primitive ages of the Church, heresies were continually creeping in, and, at last, attained so great a height, that the Council of Nice was held, A.D., 325, for the purpose of denouncing them, and particularly the heresy of Arius as to the Divinity of Our Lord. So that, I understand, by "*patristic* Christianity," he means the doctrines held by the General Councils. Leaving "*primitive*" Christianity at that period of time when the term "*primitive*" properly ceases to be applicable to the Church, he speaks of those doctrines which he calls "*patristic*," and professes to be

unable to follow any further division of these into what he calls "*mediæval*." And then his argument is, that, once admitting the Decrees of the General Councils, and the opinions of the Fathers of the Church there assembled, why do you stop at any particular period; seeing that the Decrees of all succeeding Councils, and the claims of all succeeding Prelates, seem to be of equal weight? If you admit the authority of the first Councils, why are you to reject the authority of the Council of Trent, which was the last General Council held, or that of any of the intermediate Councils? Thus all the intermediate Councils between the Council of Nice and the Council of Trent are, according to this argument, entitled to the same weight and authority.

Such, then, is the argument of Mr. Oakeley, by which he seeks to maintain his right to hold all Roman doctrine, therein including all those doctrines held by the Church of Rome during the interval occurring between the fourth and the sixteenth century, except, indeed, so far as any of the doctrines of the earlier Councils may have been altered, or modified, by the Decrees of the later Councils. That this is the fair result of the reasoning which he employs, will, I think, more clearly and distinctly appear from considering what immediately follows. "Certainly," (he continues,) "I cannot imagine the Creed of the Church to have been put into its final shape in any of the earlier centuries. We all know that the course of dogmatic Theology runs parallel to the course of heresy; and it will not, I suppose, be contended, that heresy had its ultimate issue in the fifth or the sixth century of Christianity. The ramifications of heretical invention would appear to be almost indefinite and incalculable; but so many as are the extravagancies of Theological error, so many also must be the safeguards of Orthodoxy. I will never believe, then, that the strong current of dogmatic Theology was suddenly frozen up in the fourth or sixth century of the Christian era." That is, whenever new errors and here-

sies arise, they must, in order to prevent their growth, be met continually by new measures, and that the Church has power and authority to issue new Decrees for that purpose. Admitting this to be so, how are those new measures to be set in motion? Who are to take the necessary steps for devising means whereby the new heresies are to be met? Are they to originate with Mr. Oakeley, or any other individual, setting up his own opinion against those laws which still remain unaltered, and against the rule of the Church of which he is a member and a minister? Certainly not. Such measures can only be devised, framed, and carried into execution, by those who have authority to do so.

Mr. Oakeley, then, regarding all the doctrines held at any time, and declared by any General Council assembled between the fourth and the sixteenth centuries as of equal authority; and assuming, that during that interval new heresies had sprung up, which had "issued in all kinds of fatal speculation upon matters connected with the internal life of the Christian; such, for example, as the mode of his justification in the sight of God;" next observes,—“Shall I suppose the Church to have been silent on such emergencies? On the contrary, I believe her to have been ready at Trent as at Nicæa with her scholastic definitions and her preclusive anathemas.” The Church which is here spoken of, is clearly and decidedly the Roman Church. We all know that the Council of Trent was summoned by Pope Paul III. as a General Council, though, no doubt, Mr. Oakeley is perfectly correct in suggesting that it is a matter in dispute whether it should be regarded as a strictly œcumenical Council. However that may be, it was a Council called by the Church of Rome, the Decrees of which were subsequently ratified by Pope Pius IV. Of this Council Mr. Oakeley says, “on the contrary, I believe her to have been ready at Trent, as at Nicæa, with her scholastic definitions and her preclusive anathemas.” Anathemas, that is, against all who rejected the doctrines maintained by the

Council of Trent, as others had been pronounced against the impugnors of those sanctioned by the Council of Nice. The Council of Trent was held in the year 1545, and continued to 1563, with the omission of about ten years, between 1552 and 1562; and the Council of Nice was held in the year 325. Mr. Oakeley, therefore, will not believe that the strong current of dogmatical theology became frozen up, either in the fourth or sixth centuries of the Christian era, that is, during the period within which the four first General Councils were held, but he considers that it continued until the Council of Trent, in which assembly the whole doctrine of the Roman Church was revised.

He proceeds.—“With these feelings your Lordship can hardly wonder that I should deem too well of my Church to suppose, without overpowering reason, that she directly and unequivocally contravenes the Decrees even of the later Councils.” The interpretation, therefore, which he puts upon the Articles of the Church of England is, that they do not contravene, and do not attempt to contravene, the Decrees of the later Councils; including, of course therein, those of the Council of Trent, of the Council of Florence, of the Council of Constance, and others. “What?” (he says) “a body of Divines in one corner of the world, (good men, I doubt not, in their way, yet surely exposed, and apparently not superior to, exterior influences,) set about deliberately to call in question the solemn acts of the assembled Prelates of Christendom! I know it is a moot point how far the Council of Trent is to be regarded as œcumenical. I do not wish to enter upon this question, but I cannot conceive any Catholic-minded person not feeling that, (considering our blessed Lord’s promise) there is on the whole so much reason for expecting that the Holy Ghost would be present in any large assembly of Bishops, representing the different members of the Catholic body, as to dispose him to grasp any alternative which would, at all events, keep him clear of the unspeakable danger of maligning, if so be, that unutterably sacred presence!”

In these terms does Mr. Oakeley, a member and Minister of the Reformed Church of England, think it consistent with his duty to speak of those venerable persons, by whose exertions the Reformation of his own Church was effected, and the yoke of the Roman Pontiff was thrown off,—and by whose labours and assistance the independence of that Church, of which he himself is a Minister, has been finally secured. And this language he does not scruple publicly to address to a Bishop of that very Church, under the pretence of explaining his own conduct. Surely it became him to pause before he applied expressions so disparaging and sarcastic to those pious and learned persons. And before he thus publicly addressed his Diocesan, he should have borne in mind that the Reformers were not, of their own accord, and unauthorized, setting themselves up to controvert the doctrines sanctioned by the Council of Trent.

Before the Council of Trent was convened, the Church of England had, in some degree, effected its disenthralment from the Church of Rome—it stood as an independent Church. The reverend persons, alluded to by Mr. Oakeley, were called upon by those in authority to take measures for settling the principles, upon which the doctrines of the Church of England were in future to be based. Their labours were appreciated and recognised by the Church, and ratified by the sovereign. Between the reign of Edward VI. and the accession of Queen Elizabeth, all the laws relating to the separation of the Church of England from the Church of Rome were indeed abolished, but when Queen Elizabeth ascended the throne, the acts of Queen Mary's reign were repealed, and the laws concerning religion restored to the position in which they stood at the end of the reign of Edward VI. In the year 1562, the Articles of the Church of England were revised in Convocation, and, after having been confirmed by the Queen, again issued. They were, subsequently, a third time revised and confirmed in the year 1571, when they were also recognised

by the Legislature, in the Act of 13 Elizabeth, ch. 12, which expressly directs, that they should be thenceforward signed by all persons to be admitted into the ministry of the Church of England. Nor is this all, they were a fourth time ratified and confirmed by the Canons of 1603, the 36th of which sets forth the three Articles required to be signed, *ex animo*, by every person admitted to Holy Orders. And they were lastly again ratified and confirmed by the Act of Uniformity. They still form the rule of practice, and without subscribing those Articles, in the manner, and with the intention pointed out by the thirty-sixth Canon, no person can properly be admitted as a Minister into the Church of England.

The Reformers, of whom Mr. Oakeley speaks, are the persons whose labours have been thus over and over again recognised, and who undertook those labours for the purpose of ascertaining what were the true Doctrines set forth in the Holy Scriptures. The result of their investigation has been handed down to us in the Thirty-nine Articles; and yet of these very persons Mr. Oakeley thinks himself justified in speaking as "a body of Divines in one corner of the world, (good men, I doubt not, in their way, yet surely exposed, and apparently not superior, to exterior influences) set about deliberately to call in question the solemn acts of the assembled Prelates of Christendom!!" But how very different is the language used, when speaking of the Reformers, by that learned Judge, who so long was the pride and ornament of this profession! I will shew that he entertained a totally opposite opinion of their merits.

The case to which I am about to refer is one not very unlike the present, although not precisely similar to it; for the party there proceeded against claimed to hold, publish, and *preach* certain doctrines, and of a different description from those advocated by Mr. Oakeley. It is entitled "The Office of the Judge promoted by H. M. Procurator-General against the Rev. Francis Stone," and is reported in the first volume of Dr. Haggard's *Consistory Reports*, page 424. I feel it to be

my duty to read all that passed upon that occasion, and particularly the language used by the learned Judge in delivering the sentence. For I consider that judgment to be in almost every word of it, applicable to the general circumstances of the present case.

The Reverend Francis Stone was proceeded against criminally under the statute 13 Elizabeth, ch. 12, for maintaining and affirming doctrines contrary to the Articles of Religion as by law established. In the first instance he gave an appearance under Protest, but that Protest was overruled, and he then appeared in person. In some respects Mr. Stone pursued the course adopted in the present case. His case was in the first instance conducted by learned Counsel, but when the cause came on for hearing, he took upon himself to make his own defence. Mr. Oakeley, as I have already said, has not thought proper to follow that course, but has retired from the case, so far at least as concerns the offering of matter of defence. Now in page 426 of the report, Lord Stowell, after having stated the objection taken to the jurisdiction of the Court, and the manner in which the Law was set forth, proceeds thus: "This offence is laid under the stat. 13 Eliz. for advisedly maintaining or affirming Doctrines directly contrary or repugnant to the Articles of Religion." The offence then, in Mr. Stone's case was laid under the particular statute here referred to, but there was also a reference to the general Law, and the Court, in overruling the objection to its jurisdiction, stated that the Citation was in the usual terms, and that it might have issued independently of the statute. The particular charge against Mr. Stone was, in the first instance, for advisedly maintaining or affirming Doctrines directly contrary or repugnant to the Articles of Religion; and this is also the charge brought, in the present case, against Mr. Oakeley.

Lord Stowell, speaking of the Thirty-nine Articles, says, "these Articles are not the work of a dark age, (as it has been represented); they are the production of men eminent for their erudition and attachment to the purity of true

religion. They were framed by the chief luminaries of the Reformed Church, with great care, in Convocation, as containing fundamental truths deducible, in their judgment from Scripture: and the Legislature has adopted and established them, as the doctrines of our Church, down to the present time." These are observations directly applying to the case now under consideration. The Articles are not the work of a dark age, but are the production of men eminent for their erudition, and attachment to the purity of true religion:—Not of a body of divines in one corner of the world (good men, doubtless in their way, yet exposed and apparently not superior to external influences)—but (according to the opinion of the learned Judge) the productions of men eminent for their erudition and attachment to the purity of true religion. He describes them, as framed by the chief luminaries of the Reformed Church, with great care in Convocation, as containing fundamental truths deducible in their judgment from the Scriptures. Such was the character of the Reformers, and of the Articles drawn up by them! The *Reformers* eminent for their erudition and attachment to the purity of true religion—the *Articles* containing fundamental truths in accordance with the Scriptures.

Speaking of the Articles, Lord Stowell further says: "The purpose for which these Articles were designed, is stated to be 'the avoiding the diversities of opinions, and the establishing of consent touching true religion.' It is quite repugnant, therefore, to this intention, and to all rational interpretation to contend, as we have heard this day, that the construction of the Articles should be left to the private persuasion of individuals, and that every one should be at liberty to preach doctrines contrary to those which the wisdom of the State, aided and instructed by the wisdom of the Church, had adopted."—Mr. Stone had argued that a certain construction for which he contended should be put on the Articles of the Church. In the present case Mr. Oakeley does not openly contend, (though he leaves it to be inferred from the statement

in his Pamphlet) that the construction of the Articles ought to be left to the private judgment of individuals. And whilst Mr. Stone claimed a liberty to preach doctrines contrary to those which the combined wisdom of the Church and State has adopted, Mr. Oakeley disclaims any right to teach the doctrines which he maintains. In all other respects, however, the language of Lord Stowell applies directly, and immediately to the circumstances of the case under consideration. We ought not to be left to any construction of the Articles of our Church, which may arise from the different opinions of persons concerning them. No minister of the Church of England has a right to put his own private interpretation upon the Articles, which he has sworn to, and which he has subscribed. Mr. Oakeley indeed has probably subscribed them more than once, or twice. He is a member of the University of Oxford, Senior Fellow of his College, a Minister of the Church of England, and a Minister of the Chapel to which he is licensed. In all these different characters, I apprehend he has signed the Articles, and certainly he did so on his admission to the Ministry, and when his license was granted, on both which occasions he openly professed that he signed them willingly, and *ex animo* according to the Canon of 1603.

In Lord Stowell's Judgment, therefore, these Articles are not to be construed according to the private opinions of any individual whatever.—His words are, "It is the idlest of all conceits, that this is an obsolete act; it is in daily use, '*viridi observantia*,' and as much in force as any in the whole Statute Book, and repeatedly recommended to our attention; by the injunctions of almost every Sovereign who has held the sceptre of these realms. It is no business of mine, in this place, to vindicate the policy of any Legislative Act, but to enforce the observance of it."—And this duty of the Court still remains unchanged.—I do not sit here to vindicate the policy of the law, but to enforce it in any case brought before me, where an offence against that law is proved. "I cannot, how-

ever," says Lord Stowell, "omit to observe, that it is essential to the nature of every establishment, and necessary for the preservation of the interests of the Laity, as well as of the Clergy, that the preaching diversity of opinions shall not be fed out of the appointments of the Established Church; since the Church itself would otherwise be overwhelmed with the variety of opinions, which must, in the great mass of human character, arise out of the infirmity of one common nature. For this purpose, it has been deemed expedient to the best interests of Christianity, that there should be an appointed Liturgy, to which the offices of public worship should conform; and as to preaching, that it should be according to those doctrines which the State has adopted, as the rational expositions of the Christian Faith. It is of the utmost importance that this system should be maintained. For what would be the state and condition of public worship, if every man was at liberty to preach, from the pulpit of the Church, whatever doctrines he may think proper to hold? Miserable would be the condition of the Laity if any such pretension could be maintained by the Clergy."—Mr. Oakeley, undoubtedly, does not assert the right to preach the doctrines, which he espouses, from the pulpit of his Church, but he does claim the right, as it appears from his Pamphlet, not only to hold them, but to proclaim them to the world. Not merely to address this Letter by way of private explanation of his conduct to his Diocesan, as he declares himself bound in duty to do, but to proclaim in public the extent of the claim which he makes, that is, to hold the whole doctrine of the Church of Rome.

To return to the Judgment of Lord Stowell, "It is said, that Scripture alone is sufficient. But though the Clergy of the Church of England have been always eminently distinguished for their learning and piety, there may yet be, in such a number of persons, weak and imprudent and fanciful individuals."—Individuals, I may add, who will not abstain from publicly stating in print to their Bishop, that which will, it is admitted, have the effect of disturbing the peace of the

Church.—“And,” continues Lord Stowell, “what would be the condition of the Church, if such a person might preach whatever doctrine he thinks proper to maintain? As the law now is, every one goes to his parochial Church, with a certainty of not feeling any of his solemn opinions offended.—If any person dissents, a remedy is provided by the mild and wise spirit of toleration, which has prevailed in modern times, and which allows that he should join himself to persons of persuasions similar to his own.—But that any Clergyman should assume the liberty of inculcating his own private opinions, in direct opposition to the doctrines of the Established Church, in a place set apart for its own public worship,” (Mr. Oakeley, indeed, as I have already stated, repudiates this claim) “is not more contrary to the nature of a National Church than to all honest and rational conduct.—Nor is this restraint inconsistent with Christian liberty; for to what purpose is it directed, but to ensure, in the established Church, that uniformity which tends to edification; leaving individuals to go elsewhere according to the private persuasions they may entertain.”

This part of Lord Stowell’s Judgment recalls to my mind a passage in Mr. Oakeley’s Pamphlet, in which he seems to draw a distinction between what would be his duty, if he were the Minister of a Parochial Church, and what is now his duty as Minister of this Chapel. He says, in substance, that those who are discontented with his doctrine are not bound to attend his Chapel. The passage occurs in page 32,—“But (and this brings me at once to the next division of my subject) I have always attributed, whether rightly or wrongly, your Lordship’s forbearance in the case of Margaret Chapel, to your conviction; First, that I had a basis of Rubrical authority for every considerable ‘innovation’ upon existing practice; and that ‘innovations’ are only wrong where existing practice is perfect (which cannot be pretended); and second, that, above all, there was this great distinction between Margaret Chapel and some other Churches where improvements had been attempted, that my

regular congregation were quite unanimous, either in approving the alterations, or in delegating to their Clergyman the power (so far as they were concerned) of making them. My Lord, it is not necessary I should say to your Lordship, how very different are the circumstances of a Chapel from those of a Parish Church. I am not going to argue the question on which side abstractedly is the advantage, for on this matter the minds of English Churchmen are pretty well made up; but I certainly feel, after some considerable experience, that, in the present state of our Church, what is called the 'voluntary system,' is not without its own very special advantages. It is a miserable thing indeed where a Clergyman's influence depends upon the popularity of his *preaching*; but I do not see any harm, quite the reverse, in an influence which is derived, if so be, from the mode in which Divine Service is celebrated. And, besides, since the tie between a Chapel and its congregation, is either one of affection, or none at all, I do not see why persons who dislike a particular Service or Ministry, should not withdraw themselves. If people recognise strongly the *parochial* tie, then I wonder why they come to Margaret Chapel at all; and if they do not, there is an ample choice of Chapels in London."—Mr. Oakeley appears to forget that his license to officiate in this Chapel was granted to him, as a Minister of the Church of England, and that he undertook to perform the Divine offices in that Chapel, as a Minister of the Church of England, and that it was for the use and accommodation of the inhabitants of a populous Parish, that this Chapel was ever permitted to be opened. Mr. Oakeley's situation is precisely this:—He is the Minister of a Chapel, opened for the accommodation of such of the Parishioners as may choose to attend it. Undoubtedly the Parishioners are not bound to go there. But the Chapel would never have been opened unless there had been a want of room in the parish Church. And it is upon the condition, that he will conduct himself in all respects as a Minister of the Church of England, that he has been per-

mitted to officiate in that Chapel at all. For my part, I can make no distinction in this respect between the case of a Parochial Church, and that of a Chapel opened under such circumstances; nor do I think that any such distinction can be maintained.

Lord Stowell proceeds thus,—“It is, therefore, a restraint essential to the security of the Church, and it would be a gross contradiction to its fundamental purpose to say, that it is liable to the reproach of persecution, if it does not pay its ministers for maintaining doctrines contrary to its own. I think myself bound at the same time to declare, that it is not the duty nor inclination of this Court to be minute and rigid in applying proceedings of this nature, and that if any Article is really a subject of dubious interpretation, it would be highly improper that this Court should fix on one meaning, and prosecute all those who hold a contrary opinion regarding its interpretation.” In these observations every one must concur. But it is a very different thing where a Minister of the Church of England publicly claims to hold all Roman Doctrines; some of which are directly opposed to the Doctrines of the Church of England. By allowing such an individual to proceed with impunity, the whole purpose for which these Articles were framed and published, would be entirely defeated. “It is,” says Lord Stowell, “a very different thing, where the authority of the Articles is totally eluded; and the party deliberately declares the intention of teaching doctrines contrary to them.” In the present case, although Mr. Oakeley repudiates any right of publicly teaching doctrines contrary to the Articles of the Church, he nevertheless asserts his right to hold them, and he publishes them in a pamphlet and declares them to the whole world.

Lord Stowell continues—“With these observations on the Law, I have only to inquire whether the doctrine, which this gentleman has preached, is contrary to the Articles? That will be a very short discussion on the evidence which has been laid before the Court.” He then proceeds to the proof that Mr. Stone had, in substance, denied the Doctrine of the

Trinity, and of the Atonement by the Death and Sacrifice of our Saviour. "It is alleged that Mr. Stone has in a Sermon publicly impugned these Doctrines, and that he has since committed these sentiments to the press." Lord Stowell then considers the effect of the evidence adduced before him, deeming it sufficient to satisfy him that Mr. Stone had incurred the penalty of the statute.

According to the form of proceedings under 13 Eliz. ch. 12, which was adopted in Mr. Stone's case, it was necessary that the party proceeded against should be called on to declare whether he would retract his past errors, and Lord Stowell, having on a subsequent day heard Mr. Stone, was of opinion that he had not revoked his error. According to the provisions of the 122nd Canon, "the Bishop of London was then introduced, attended by the Dean of St. Paul's and two of the Prebendaries; when, having taken the Judge's chair, he was informed by the Judge of the nature of the offence and the proceedings instituted against Mr. Stone. The Bishop then stated, that he had read the depositions, and was clearly satisfied that the offence was proved; and proceeded to read and sign the sentence of deprivation, which the Judge directed the Registrar to record."

I have thus shown the manner, in which the Articles prepared by our reverend Reformers, recognised by repeated Acts of the Legislature, and by the Church in Convocation, are described, and spoken of, by the very learned Judge to whom I have referred. And I cannot but think that, with the exception of those parts which speak more particularly of the *preaching* of the doctrines of the Church, and of the being *paid* for the preaching of those Doctrines, his remarks are completely, and directly, and in every respect, applicable to the circumstances of this case. For what is the result of the long and tedious examination of this Pamphlet into which the Court has been driven by the necessity of the case? It is this,—that Mr. Oakeley holds and professes all Roman doctrines,—that he holds everything that has been, and is still, maintained

and taught by the Church of Rome, from the fourth and sixth centuries to the year 1563. The first Council which he mentions having been held A. D. 325, and the last in 1545, and not finally dissolved until 1563. He, therefore, avows the doctrines taught by the later Councils, as well as those of the earlier ones. He can make no distinction between the Council of Nice and the Council of Trent. He professes his belief in every doctrine which has been promulgated by any one of the General Councils. If this is not the interpretation which ought to be put upon his Pamphlet, I am at a loss to discover what his real meaning is,—a meaning which he professes to explain intelligibly to his Diocesan.

The next question is, what are the doctrines taught by the Roman Church? Are they, or are any of them, opposed to the doctrines of the Church of England? If any one of them be repugnant to the Articles of that Church, Mr. Oakeley is guilty of the offence with which he stands charged. I have already observed that in this Pamphlet no single doctrine is particularised. I cannot collect from any part of it, or from the whole taken together, that he maintains one doctrine more than another. It is the whole range of the Roman doctrine which he professes to believe, and his belief in which he claims a right to declare. He thus expresses himself—"I believe the Church to have been ready at Trent, as at Nicæa, with her scholastic definitions, and her preclusive anathemas." In another passage he calls the decrees of the Council of Trent "the solemn acts of the assembled Prelates of Christendom." He, therefore, maintains all the Doctrines of the Council of Trent, which speaking generally, contain the doctrines of the Church of Rome at the present day. They may possibly have been modified and altered to a certain extent; but if this has been the case, it was for Mr. Oakeley to have pointed out, in what respect, and to what extent this had been done, and to have shewn, that the doctrines which are denounced in the Articles of the Church of England, are not the present Doctrines of the Church of Rome.

Sitting here to administer the law, the Court cannot for a moment admit that Mr. Oakeley is entitled to put his own construction upon the Articles of the Church, in order to justify the holding and maintaining of doctrines contrary to the views of that Church. And, therefore, in contrasting the doctrines of the Church of England with those of the Church of Rome, the Court will confine itself to the consideration of the words of the Thirty-nine Articles themselves, which are to be taken in their plain, pure, grammatical construction. Any attempt to explain their real meaning by referring to the opinion of writers, however able and learned, would be to weaken their efficiency as a binding authority upon the Clergy of the Established Church of this country. This course will render it unnecessary to travel into the various authorities (strong and conclusive though they were) which were referred to by the learned Counsel, who argued the case on the part of the Promoter, and must be my apology for not having noticed so fully, as might perhaps have been anticipated, the very great learning, ingenuity, and research, which were displayed in those arguments. The Articles must speak for themselves, and the Court must make out from them those points upon which the two Churches differ in doctrine.

In the first place then, it is required by the thirty-sixth Canon, that the three Articles therein set forth should be subscribed in these terms, "I do really and *ex animo* subscribe to these three Articles above mentioned, and to all things that are contained in them." The first of these three Articles respects the supremacy of Her Majesty in these realms. The second is, "that the Book of Common Prayer, and of ordering of Bishops, Priests, and Deacons, containeth in it nothing contrary to the word of God, and that it may lawfully so be used; and that he himself will use the form in the said book prescribed, in public Prayer and administration of the Sacraments, and none other." The third is a very comprehensive Article, "that he alloweth the Book of Articles of Religion, agreed upon by the Archbishops and Bishops of both provinces, and

the whole Clergy in the Convocation holden at London in the year of our Lord one thousand five hundred sixty and two; and that he acknowledgeth all and every the Articles therein contained, being in number nine and thirty, besides the ratification, to be agreeable to the Word of God." To this declaration Mr. Oakeley has subscribed "willingly and *ex animo*," thereby disclaiming all mental reservation. Such being the obligation which he has voluntarily taken upon himself, the Court will proceed to the examination of the Articles. But, in doing so, it will be unnecessary to go through every one of the Thirty-nine; for this would exceed the time which can be spared for the discussion of this question, important as it is. It will be sufficient to take some of the leading Articles which are more particularly opposed to the doctrines of the Church of Rome.

In the course of the argument it was very properly stated, that the Articles of the Church of England were, with the exception of two or three of them, manifestly drawn up in direct opposition to the Decrees of the Council of Trent. The Decree concerning the doctrine of Purgatory was not indeed passed until the year after these Articles were set forth. But the question of date seems to me to be immaterial, because, as was truly observed, many of the doctrines of the Council of Trent are but a republication of the doctrines of earlier Councils: and, as far as regards the present case, there cannot be a doubt, according to Mr. Oakeley's own shewing, that the Decrees of the Council of Trent are the test by which his Orthodoxy and conformity, or want of conformity to the Articles, is to be tried. He assumes the doctrines of the Council of Trent to be true and binding. He tells us he believes those doctrines. Whatever, therefore, may have been the dates of the Decrees of that Council, it cannot be made a ground of complaint on his part, that he is tried by the test to which he has himself referred.

To come to the Articles—passing over the five first, which speak of the Doctrine of the Trinity, I proceed to the sixth,

which declares "the sufficiency of the Holy Scriptures for Salvation."—The words are, "Holy Scripture containeth all things necessary to salvation: so that whatsoever is not read therein, nor may be proved thereby, is not to be required of any man, that it should be believed as an Article of the Faith, or be thought requisite or necessary to salvation. In the name of the Holy Scripture we do understand those Canonical books of the Old and New Testament, of whose authority was never any doubt in the Church."—Then having enumerated the Canonical books, "the other books (as Hierome saith) the Church doth read for example of life and instruction of manners; but yet it doth not apply them to establish any Doctrine; such are these following." And after giving their names, "all the books of the New Testament, as they are commonly received, we do receive, and account them Canonical."

This sixth Article then expressly declares the sufficiency of the Holy Scriptures for salvation,—and that nothing is required to be believed of any man as an Article of Faith, or necessary to salvation, but what may be read in them. It is therefore a fundamental principle of the Church of England, that it derives its doctrines from the Scriptures alone, and that it requires no belief in any Article of Faith, which is not to be read therein, or proved thereby. The Church of Rome, on the other hand, includes, among the number of Canonical books, some which are not admitted into that number by the Church of England, though they are allowed to be read for example of life, and instruction of manners. But the Church of Rome goes further, for it adds to these books tradition, as appears from the Decree passed in the fourth Session of the Council of Trent, A.D., 1546—before any one of the Articles was drawn up. Passing by the introductory part, that Decree is to the following effect:—"Sacrosancta oecumenica et generalis Tridentina Synodus perspicuens hanc veritatem et disciplinam contineri in libris scriptis, et sine scripto traditionibus, quæ ipsius Christi ore ab

Apostolis acceptæ, aut ab istis Apostolis, Spiritu Sancto dictante, quasi per manus traditæ, ad nos usque pervenerunt; orthodoxorum patrum exempla secuta, omnes libros tam veteris quam Novi Testamenti, cum utriusque unus Deus sit auctor, necnon traditiones ipsas, tum ad fidem, tum ad mores pertinentes, tanquam vel ore tenus à Christo vel à Spiritu Sancto dictatas, et continuâ successione in Ecclesiâ Catholicâ conservatas pari pietatis affectu ac reverentiâ suscipit et veneratur."

Thus the Decree of the Council of Trent, while it elsewhere includes within the number of those books, which it accounts Canonical, all, or nearly all, those which are considered Apocryphal by the Church of England, also places tradition on an equal footing with the Scriptures as well in respect to matters of Faith, as to morals. And this constitutes a most essential difference between the two Churches, and must always, as it appears to me, so long as it remains, form an insuperable bar to any reconciliation between them; because it is obvious that many of the errors of the Church of Rome, which are most objectionable in the view of the Church of England, and which caused the separation between the two Churches, are to be traced up to this source, that they rest upon tradition.

The nineteenth and twenty-first Articles are pretty much to the same effect. The nineteenth declares, that "As the Church of Jerusalem, Alexandria, and Antioch, have erred; so also the Church of Rome hath erred, not only in their living and manner of ceremonies, but also in matters of Faith,"—a plain declaration against the infallibility claimed by the Church of Rome. The twenty-first Article also, speaking of the authority of General Councils, declares that "they may err, and sometimes have erred, even in things pertaining unto God. Wherefore things ordained by them as necessary to salvation, have neither strength nor authority, unless it may be declared that they be taken out of Holy Scripture." Here then the Article directly re-affirms what is stated in the

former part of the sixth Article, that "Holy Scripture containeth all things necessary to Salvation: so that whatsoever is not read therein, nor may be proved thereby, is not to be required of any man, that it should be believed as an article of the Faith, or be thought requisite or necessary to Salvation." Can there possibly be a more distinct and decided difference between the two Churches than that which arises out of the doctrine of Tradition? There is here no room for cavil or for dispute. What possible doubt can be raised upon this Article of the Church of England? I am at a loss to conceive with what mental reservation Mr. Oakeley could have subscribed willingly and *ex animo* (as he is required to do by the thirty-sixth Canon) to the sixth, nineteenth, and twenty-first Articles, respecting the sufficiency of the Holy Scriptures to Salvation? The Church of England decrees that nothing whatsoever, which is not read in the Holy Scriptures, or may be proved thereby, is to be required by any man to be believed as an Article of Faith. The Church of Rome requires, under pain of anathema, that the same degree of weight and binding authority shall be attributed to Tradition, as is given to the Scriptures themselves. They are both to be treated "*pari pietatis affectu ac reverentiâ*." In the first instance, therefore, in which the Court is called upon to give an opinion upon the Articles, there is a direct and positive contradiction between the two Churches. They cannot by possibility—by any mode of construction—by any interpretation whatsoever—or "even by any attempt to extort" and "extract anything of a Catholic sense" in Mr. Oakeley's meaning of that term, be reconciled with the doctrine of the Church of Rome. What possible Catholic sense, meaning thereby a Roman Catholic sense, can be given to the Articles which I have read, so as to reconcile them with the doctrine of tradition, which by the Council of Trent is required to be received?

These Articles may also supply an answer to that part

of Mr. Oakeley's Pamphlet, in which he claims an equal authority for the Councils of a later date with those of the fourth and sixth centuries. The four first general Councils are recognised here, not simply because they are the Decrees of General Councils, but because those Decrees are, in the opinion of the English Church, consistent with, and deducible from the Holy Scriptures. So, on the other hand, the Decrees of the later Councils are not recognised by the Church of England, because, in her opinion, they are not in accordance with the Holy Scriptures. That is the Doctrine of the Church of England, and that is the ground upon which the Decrees of the first four general Councils have been received here. The Church of England has satisfied herself that the Decrees of those Councils are consistent with, and are to be proved by, the Holy Scriptures.

In proceeding further to examine the Articles, I pass over that relating to the Doctrine of Original Sin, not because a distinct difference and a direct opposition does not exist between the Doctrines of the Church of Rome and those of the Church of England, as stated in that Article; but because there are others which appear to me to be much more directly opposed to the Roman Doctrine. I would, however, guard myself most carefully from being supposed to pass it over, because I consider that the Doctrines of the Church of Rome are consistent with that Article of the Church of England. The same remarks will apply to the Article respecting works of supererogation. I have already referred to the nineteenth Article respecting the Church of Rome having erred in matters of faith, and to the twenty-first as to the possibility of General Councils erring in things pertaining unto God; and I have shewn how opposite this is to the declaration of Mr. Oakeley, that the Church has spoken authoritatively and decidedly, and with an effect as binding, in the later Councils, as in those of an earlier period.

I pass on to the Twenty-second Article concerning Pur-

gatory. "The Romish doctrine concerning Purgatory, Pardons, Worshipping and Adoration, as well of Images as of Reliques, and also Invocation of Saints, is a fond thing vainly invented, and grounded upon no warranty of Scripture, but rather repugnant to the Word of God." The word "*rather*" is in this Article put in opposition, and does not mean *in some degree*, but *on the contrary*; and the sentence implies, that so far from the matters enumerated being consistent with, they are repugnant to, the Word of God. Again, I ask as before, what possible doubt can be raised upon this Article? What possible mental reservation—what possible distortion of language can throw a doubt upon its meaning? Is it the doctrine of the Church of Rome of which it speaks, or is it not? The Article itself declares that it is. And it would therefore be not only unnecessary, but improper, for me to travel out of the very declaration of the Article itself, in order to prove that Purgatory, the worshipping of Angels, and the invocation of Saints, do constitute a part of the Roman doctrine? I am bound, sitting here, to assume this to be a part of the Romish doctrine, and that when Mr. Oakeley subscribed the declaration required by the thirty-sixth Canon, that he believes and allows all things set forth in these Articles, he did expressly declare that Purgatory was a part of the doctrine of the Roman Church. In his Pamphlet now under consideration, he declares his belief in all the Roman doctrine; and, if this be a part of that doctrine, he declares and professes his belief in it, and thereby maintains and affirms, contrary to the express words of this Article of the Church of England, that the doctrine of Purgatory is not a "fond thing, vainly invented and grounded upon no warranty of Scripture." This is a positive contradiction; and as regards any difficulty arising from the date of the Decree of the Council of Trent upon this subject, it is an historical fact, that the doctrine of Purgatory was known long before the Council of Trent was

assembled. It was promulgated, I believe, so early as the eighth century, and there was a formal recognition of it somewhere about A. D. 1438, in the Council of Florence. Our own authorities also refer to that doctrine as recognised in this country about the latter period. Lyndwood, in the seventh page of his "*Provinciale*," speaking of the three places in which deceased persons were supposed to remain between the time of their death and the final judgment, says, "et supra hunc locum est purgatorius, in quo est poena sensûs et damni ad tempus." Thus in the outset of his Gloss, whilst speaking of the doctrine of the Trinity, and of the Catholic Faith, we find this description of Purgatory, and we know that Lyndwood died about A. D. 1446, in the twenty-fifth year of Henry VI., consequently, long before the Council of Trent was assembled. This doctrine was also, as I have stated, directly acknowledged by the Council of Florence in 1438. But the Court is unwilling to refer to any further proof upon this part of the case, because it prefers to found its observations upon the words of the Article itself. I, therefore, leave this point by repeating the observation, that this doctrine being affirmed by the Article itself to be a Roman doctrine, and Mr. Oakeley professing his belief in all Roman doctrine, necessarily includes this in the Creed, which he thus openly maintains, together with the worship of Images and Relics, and others in the same category. He does, therefore, in these respects, maintain and affirm doctrines directly contrary and repugnant to the Articles of the Church of England.

I proceed to consider the twenty-fifth Article which relates to the Sacraments, and declares that "there are two Sacraments ordained of Christ our Lord in the Gospel, that is to say, Baptism and the Supper of the Lord. Those five commonly called Sacraments, that is to say, Confirmation, Penance, Orders, Matrimony, and Extreme Unction, are not to be counted for Sacraments of the Gospel, being such as have

grown partly of the corrupt following of the Apostles, partly are states of life allowed in the Scriptures; but yet have not like nature of Sacraments with Baptism, and the Lord's Supper, for that they have not any visible sign or ceremony ordained of God." The Article then declares, that "The Sacraments were not ordained of Christ to be gazed upon, or to be carried about, but that we should duly use them. And in such only as worthily receive the same, they have a wholesome effect or operation: but they that receive them unworthily purchase to themselves damnation."

The doctrine of the Church of Rome as to the number of the Sacraments, is to be found in the first Canon of the seventh Session of the Council of Trent, "*Si quis dixerit, Sacramenta novæ legis non fuisse omnia à Jesu Christo Domino nostro instituta; aut esse plura vel pauciora quam septem, videlicet, Baptismum, Confirmationem, Eucharistiam, Pœnitentiam, Extremam Unctionem, Ordinem, et Matrimonium; aut etiam aliquod horum septem non esse verè et propriè Sacramentum; Anathema sit.*" Here, therefore, instead of two Sacraments, which our Church admits and acknowledges, we find seven; five of which are declared in the Article, which I have read, as not being accounted for Sacraments of the Gospel, whilst the Church of Rome requires them to be received as such, under the penalty of Anathema. Again, therefore, Mr. Oakeley is maintaining a doctrine directly opposed to that of the Church of England. I may also remark of this doctrine, as of the last, that it does not depend upon the Decrees of the Council of Trent, but was acknowledged in the Church of Rome, and particularly in this country, long before that Council was convened. Upon this point I refer again to the learned Gloss of Lyndwood, (page 42.) "*Septem sunt Gratiæ Sacramenta, quorum dispensatores sunt Prælati Ecclesiæ, quorum quinque ab omnibus debent recipi Christianis; utpote Baptismus, Confirmatio, Pœnitentia, Eucharistia, suo tempore, et Extrema*

Unctio Sunt et alia duo Sacramenta, scilicet Ordo et Matrimonium." So early, therefore, as 1446, the Doctrine of the Church of Rome is shown to have been, that there were seven Sacraments. Here again, Mr. Oakeley, publicly professing his belief in the whole of the Doctrines of the Church of Rome, is in direct opposition to the plain and positive declaration of the Articles of the Church of England: Again, the Article teaches us that "the Sacraments were not ordained of Christ to be gazed upon, or to be carried about, but that we should duly use them." And the authorities to which the Court has adverted, might, as was shown in the argument, be extended to that point also.

The Court now refers to the twenty-eighth Article which is entitled "of the Lord's Supper." A Decree was passed in the thirteenth Session of the Council of Trent, and in the year 1551 (the very year in which the Articles of the Church of England were drawn up) upon the same subject. The words of this Article are—"The Supper of the Lord is not only a sign of the love that Christians ought to have among themselves one to another; but rather is a Sacrament of our Redemption by Christ's death: insomuch that to such as rightly, worthily, and with faith, receive the same, the Bread which we take is a partaking of the Body of Christ; and likewise the Cup of Blessing is a partaking of the Blood of Christ." It then declares that "Transubstantiation (or the change of the substance of Bread and Wine) in the Supper of the Lord, cannot be proved by Holy Writ; but is repugnant to the plain words of Scripture, overthroweth the nature of a Sacrament, and hath given occasion to many superstitions. The body of Christ is given, taken, and eaten, in the Supper only after an heavenly and spiritual manner. And the mean whereby the Body of Christ is received and eaten in the Supper is faith." We have, therefore, in this Article an express condemnation of the Doctrine of Transubstantiation. The words of the contemporaneous Decree of the Council of Trent to which I have alluded

to, are to the following effect: "Quoniam autem Christus Redemptor noster, corpus suum id quod sub specie panis auferebat, verè esse dixit, ideo persuasum semper in Ecclesiâ Dei fuit, idque nunc denuo sancta hæc Synodus declarat, per consecrationem panis et vini, conversionem fieri totius substantiæ panis in substantiam Corporis Christi Domini nostri, et totius substantiæ vini in substantiam Sanguinis ejus: quæ conversio convenienter et propriè à Sanctâ Catholicâ Ecclesiâ Transubstantiatio est appellata." This is a direct adoption of the doctrine of Transubstantiation, and is, therefore, an express contradiction of the Article that Transubstantiation cannot be proved by Holy Writ, but is repugnant to the plain words of Scripture. Yet in the doctrines maintained by this Council, Mr. Oakeley professes his belief. Also the first of the Canons passed in the same Session enacts, "Si quis negaverit, in Sanctissimæ Eucharistiæ Sacramento contineri verè, realiter, et substantialiter Corpus et Sanguinem unà cum animâ et Divinitate Domini nostri Jesu Christi, ac proinde totum Christum: sed dixerit tantummodo esse in eo ut in signo, vel figurâ, aut virtute: anathema sit."—Again, the fourth Canon; "Si quis dixerit, peractâ consecratione in admirabili Eucharistiæ Sacramento non esse Corpus et Sanguinem Domini nostri Jesu Christi; sed tantum in usu dum sumitur, non autem antè vel post, et in hostiis seu particulis consecratis, quæ post communionem reservantur, vel supersunt, non remanere verum Corpus Domini; anathema sit."

So with respect to the last part of the Article, that "The Sacrament of the Lord's Supper was not by Christ's ordinance reserved, carried about, lifted up, or worshipped," the sixth Canon of this same Session enacts, "Si quis dixerit, in sancto Eucharistiæ Sacramento Christum unigenitum Dei Filium non esse cultu latriæ, etiam externo adorandum; atque ideo nec festivâ peculiari celebritate venerandum, neque in Processionibus, secundum laudabilem et universalem Ecclesiæ Sanctæ ritum et consuetudinem, solemniter circumgestandum, vel non publice, ut adoretur, populo propo-

nendum, et ejus adoratores esse idololatrias; anathema sit." The Council of Trent, therefore, is, also upon this point, at direct issue with the twenty-eighth Article of the Church of England. For it declares, without any equivocation, that the consecrated elements ought to be carried about and worshipped.

Also the seventh Canon of the same Session, enacts, "Si quis dixerit, non licere sacram Eucharistiam in Sacrario reservari; sed statim post consecrationem adstantibus necessario distribuendam, aut non licere ut illa ad infirmos honorificè deferatur; anathema sit."—Again, we find the Canons of the Council of Trent, and the Articles of the Church of England in direct opposition.

But the doctrine of Transubstantiation was held by the Church of Rome long before the time of the Council of Trent. It is asserted by the Council of Lateran, and also by the Council of Constance, although I do not think it necessary to read those Decrees, because they are of some length, and were referred to in the argument. This doctrine may also be found in various parts of the *Corpus Juris Canonici*, and particularly in the Decrees. Lyndwood likewise mentions it, (page 49,) upon the words "Canon Missæ." "Canon Missæ accipitur pro illis verbis Christi, quibus sit Transubstantiatio panis in corpus et vini in Sanguinem."—And afterwards, "Unde Canon Missæ verè dicitur regula illa per quam Eucharistia consecratur; hoc est, illorum verborum per quæ panis in corpus et vinum in Sanguinem Transubstantiantur." Thus the term 'Transubstantiation' is applied to this doctrine, not merely by the Council of Trent, but also by the former Councils which I have mentioned, as well as by Lyndwood. Again, in book 3, title 23, (page 227,) in a constitution of Archbishop Langton's, we read, "Verba quoque Canonis, præsertim in consecratione Corporis et Sanguinis Christi, plenè et integrè proferantur."—Lyndwood's Gloss upon this passage, is, "In verbis consecratoriis, in quibus propriè consistit Canon Missæ,"—adding, "Forma enim verborum

quoad Corpus est talis: *hoc est enim Corpus meum*, hæc tamen conjunctio *enim* non est de Substantiâ Formæ, sed de bene esse, unde non debet omitti. Aliud namque est Forma necessaria, sine quâ non potest fieri Transubstantiatio; et aliud est Forma debita, sine quâ non debet fieri."—And as regards that portion of the Article which speaks against the reserving, carrying about, lifting up, and worshipping the Sacrament, Lyndwood in the same title remarks, (page 231,) upon the word "Elevatione," "quæ fit ut populus illud adoret."—And again, in title 26, (page 249,) "De Reliquiis et Veneratione Sanctorum," there is a constitution of Archbishop Peckham, "Dignissimum statuimus, ut Sacramentum Eucharistiæ circumferatur cum debitâ reverentiâ ad ægrotos, Sacerdote saltem induto Superpellicio, gerente Orarium cum lumine prævio in lucernâ cum Campanâ, ut populus ad Reverentiam debitam excitetur, qui ad prosternendum se, vel adorandum saltem humiliter informetur Sacerdotali prudentia, ubicunque Regem Gloriæ sub panis latibulo evenerit deportari."—Upon the word "Adorandum" the Gloss is, "Cum inclinatione capitis, et cordis devotione, et manuum expansione, sive etiam elevatione, cum Orationis devotæ vocali expressione, ut scilicet sic dicatur secundum Hostiensem, *Salve, Lux mundi, Verbum Patris, Hostia Vera, Viva Caro, Deitas integra, verus Homo, &c.*"

Whether, therefore, we look at the Council of Trent, or at the other authorities to which I have referred, we find the same direct assertion of the conversion of the bread and wine into the Body and Blood of our Saviour, and the same adoration of the Eucharist maintained: and consequently the same direct opposition to the Article of the Church of England.—How, then, can Mr. Oakeley show that this doctrine, which he maintains among the rest, is not opposed to the Articles of the Church of England? In my mind it is impossible to raise a doubt as to the construction of the Article. The language of it is plain and distinct, and the declaration express that Transubstantiation is not warranted by Scripture, and that the Sacrament of the Lord's Supper

was not by Christ's ordinance, reserved, carried about, lifted up, or worshipped.—In this instance also Mr. Oakeley is found maintaining doctrines in opposition to those of the Church of England.

Again, as to receiving the Sacrament in both kinds, the decrees of the earlier Council of Basle in 1431 were referred to in the argument. And the Council of Trent, in its twenty-first Session, held in 1562, under the Title "*Doctrina de communione sub utrâque specie, et parvulorum*," decrees "*Sacrosancta œcumenica et generalis Tridentina Synodus in Spiritu Sancto legitimè congregata, præsidentibus in ea iisdem Apostolicæ Sedis Legatis, cum de tremendo et sanctissimo Eucharistiæ Sacramento variis diversis in locis errorum monstra nequissimi dæmonis artibus circumferantur, ob quæ in nonnullis provinciis multi à Catholicæ Ecclesiæ fide atque obedientiâ videantur discessisse, censuit ea, quæ ad communionem sub utrâque specie, et parvulorum, pertinent, hoc loco exponenda sunt. Quapropter cunctis Christi fidelibus interdicit, ne posthac de iis aliter vel credere, vel docere, vel prædicare audeant, quam est his decretis explicatum et definitum.*" So in the first Canon, "*Si quis dixerit, ex Dei præcepto, vel necessitate Salutis, omnes et singulos Christi fideles utramque speciem sanctissimi Eucharistiæ Sacramenti sumere debere; anathema sit.*" But the Church of England in her thirtieth Article declares, that "the Cup of the Lord is not to be denied to the lay-people; for both the parts of the Lord's Sacrament, by Christ's ordinance and commandment, ought to be ministered to all Christian men alike."—So that here also, in another instance, the Church of England plainly differs from the Church of Rome.

Again, the thirty-first Article entitled, "of one oblation of Christ finished upon the Cross," informs us that "the offering of Christ once made is that perfect redemption, propitiation, and satisfaction, for all the sins of the whole world, both original and actual; and there is none other satisfaction for sin, but that alone. Wherefore the sacrifices of Masses, in the

which it was commonly said, that the Priest did offer Christ for the quick and the dead, to have remission of pain or guilt, were blasphemous fables, and dangerous deceits."

The Roman doctrine upon this subject may be found in the twenty-second Session of the Council of Trent held in 1562, Canon the first.—"Si quis dixerit in Missâ non offerri Deo verum et proprium sacrificium, aut quod offerri non sit aliud, quàm nobis Christum ad manducandum dari; anathema sit."

The Article further declares that "the sacrifices of Masses, in the which it was commonly said, that the Priest did offer Christ for the quick and the dead to have remission of pain or guilt, were blasphemous fables, and dangerous deceits:" but the third Canon of the same Session enacts—"Si quis dixerit, Missæ sacrificium tantum esse laudis, et gratiarum actionis, aut nudam commemorationem sacrificii in Cruce peracti, non autem propitiatorium: vel soli prodesse sumenti: neque pro vivis et defunctis, pro peccatis, pœnis, satisfactionibus et aliis necessitatibus offerri debere; anathema sit." The contradiction between the two Churches is therefore complete in this point also. The Church of England expressly denounces the sacrifice of the Mass, and the propitiatory character of that sacrifice, but in the Council of Trent in the fourth Canon we find—"Si quis dixerit, blasphemiam irrogari Sanctissimo Christi sacrificio in Cruce peracto, per Missæ sacrificium, aut ille per hoc derogari; anathema sit." It is impossible to imagine contradictions more pointed than those which exist between the Church of England and the Church of Rome upon all these important doctrines.

It appears to me quite useless to go further—there can be no necessity for commenting upon every single Article of the Church of England, which is at variance with the doctrines of the Church of Rome. My sole object in this inquiry has been to shew that there are irreconcilable differences between the two Churches; and this has been already done in respect to the several doctrines of Tradition, Purgatory, the Invocation and Worshipping of Saints, the Sacraments, and the doctrine

of the Sacrifice of the Mass. In all these respects the two Churches differ entirely. When, therefore, Mr. Oakeley publicly declares his belief in, and publicly maintains, the doctrine of the Church of Rome, not only in these respects, but in all others, there can be no doubt of his affirming and maintaining doctrines directly opposed, and contrary to the plain words of the Articles of the Church of England. And I have already stated that where the Articles are plain, distinct, and definite, affording no room for doubt as to their real meaning, no attempt can be sanctioned which goes to distort their language, and so to extort by unfair means, if fair means will not do, a sense consistent with that ultra-Catholic, or Roman Doctrine, which Mr. Oakeley professes. It must be obvious to every one that Mr. Oakeley is, in his heart, a believer in the whole Doctrine of the Church of Rome, as indeed he expressly affirms himself to be. The Court, therefore, has no doubt as to the conclusion at which it must necessarily arrive—and I accordingly pronounce that in this case the Promoter of the office of the Judge has fully and sufficiently proved the charge laid in the Articles, namely, that Mr. Oakeley has advisedly maintained and affirmed Doctrines directly contrary to the Articles of the Church of England, and that, therefore, he is liable to Ecclesiastical censures.

It now only remains to declare what those ecclesiastical censures shall be. Had this been a proceeding under the statute of Elizabeth, it would have been necessary to call upon Mr. Oakeley to retract his errors, and, if he refused to do so, he would have been deprived of any preferment which he might hold. But the present proceeding is under the general Law, which leaves the punishment to the discretion of the Court, having respect to the gravity of the offence, and the exigency of the Law. But although in the exercise of this discretion the Court is bound by no rules—it must, for the sake of the public, inflict such a punishment as may have the effect of preventing others from falling into

the same errors into which Mr. Oakeley has suffered himself to be led. Considering that Mr. Oakeley has publicly proclaimed, without reservation, qualification, or limitation, the Doctrines of the Church of Rome to be the objects of his belief, the Court is of opinion that it will best consult the justice of the case by revoking, in the first place, the License of Mr. Oakeley to officiate in the Chapel of Margaret Street, and by inhibiting him from the performance of any Ministerial office or duties within that Chapel, or elsewhere within the Diocese of London, and further, under the authority of this Court, from performing any ministerial office whatsoever, within the province of Canterbury, until he shall have repented of his errors, and declared his readiness to retract them. I must also condemn Mr. Oakeley, as a matter of course, in the costs occasioned by these proceedings, and I direct that notice of this sentence be published in the usual manner at the Chapel in Margaret Street, on Sunday next, the sixth day of July.

THE END.

LONDON:

PRINTED BY RAYNER AND HODGES,
109, Fetter Lane, Fleet Street.

a/b

EV AOA FD1
A full report of the proceedings
Stanford Law Library



3 6105 043 524 680

